

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY
I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-Ā-TARA

CIV-2017-485-224 M

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

AND

IN THE MATTER of an application by **WARWICK IAN GERNHOEFER, YVETTE REWA GRACE, JASON REUBEN KEREHI, MAVIS RAYLENE MULLINS and EDWARD JOSEPH PEARSE** as trustees of **RANGITĀNE TŪ MAI RĀ TRUST**, on behalf of Rangitāne o Wairarapa and Rangitāne o Tamaki nui-ā-Rua, for orders recognising customary marine title and protected customary rights

**FIRST AMENDED NOTICE OF ORIGINATING APPLICATION FOR ORDERS RECOGNISING
CUSTOMARY MARINE TITLE AND PROTECTED CUSTOMARY RIGHTS**

Dated 18 December 2017

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To the Registrar, High Court, Wellington

And to Greater Wellington Regional Council, Manawatu–Wanganui Regional Council (Horizons Regional Council), Hawke’s Bay Regional Council, Central Hawke’s Bay District Council, Tararua District Council, Masterton District Council, Carterton District Council, South Wairarapa District Council, Hutt City Council

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

This application is made by Warwick Ian Gernhoefer, Yvette Rewa Grace, Jason Reuben Kerehi, Mavis Raylene Mullins and Edward Joseph Pearse as trustees of the Rangitāne Tū Mai Rā Trust (“the applicants”). The Rangitāne Tū Mai Rā Trust is the post settlement governance entity for Rangitāne o Wairarapa and Rangitāne o Tamaki nui-ā-Rua (“Rangitāne”).

This document notifies you that:

1. As soon as they may be heard, the applicants will apply for orders recognising that Rangitāne has Customary Marine Title and Protected Customary Rights in the common marine and coastal area (“takutai moana”) depicted in the map attached as **Schedule A**.

Applicant Group

2. Rangitāne whakapapa to the eponymous ancestor, Rangitāne.
3. Both Rangitāne o Wairarapa and Rangitāne o Tamaki nui-ā-Rua share descent from Toi Te Huatahi, Whātonga and Rangitāne. These two branches of Rangitāne become distinct through the children of Te Rangiwhaka-ewa (the principal ancestor (“tupuna”) of Rangitāne o Tamaki nui-ā-Rua), who are direct descendants of Hāmua (the principal tupuna of Rangitāne o Wairarapa).
4. The children of Te Rangiwhaka-ewa, Parikoau and Tamahau, became important tūpuna for the Te Rangiwhaka-ewa people; Parikoau for the people in Tamaki nui-ā-Rua and Tamahau for the Rangitāne descendants in the Wairarapa area. On that basis, Te Rangiwhaka-ewa and Hāmua connect the Rangitāne iwi.
5. Rangitāne o Wairarapa and Rangitāne o Tamaki nui-ā-Rua are aware from discussions at hui-ā-iwi that the applicants are making this application on their behalf and they are supportive of this.

Application Area

6. As noted, the area to which this application relates is depicted in the map attached as **Schedule A** and is the takutai moana 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 northward side by a line that extends from the coast abutting Arataura (Poroporo) to the outer limits of the territorial sea; and

- (d) On the southward side by a line that extends from the coast abutting Turakirae Point to the outer limits of the territorial sea.

Application for Customary Marine Title

- 7. The applicants seek orders recognising that they have Customary Marine Title in the takutai moana along their coastal takiwā, as depicted in **Schedule A**, including the takutai moana near/abutting the following specific areas:
 - (a) Tautāne;
 - (b) Akitio 28A 2 and Akitio 28B (Urupā and Balance);
 - (c) Mataikona A2 (Oahanga);
 - (d) Whakataki 3B3 and 3B4;
 - (e) Ngātamatea and Waimimiha;
 - (f) Te Unuunu Blocks;
 - (g) Waikekeno; and
 - (h) Pahaoa and Pukaroro Blocks.
- 8. The grounds on which Customary Marine Title is sought are:
 - (a) Rangitāne through its various hapū holds the takutai moana in their area of interest (takiwā), including in the specific areas noted above, in accordance with tikanga; and
 - (b) Rangitāne through its various hapū has exclusively used and occupied the the takutai moana in their takiwā from at least 1840 to the present day without substantial interruption; and
 - (c) Customary Marine Title has not been extinguished as a matter of law.

Application for Protected Customary Rights

- 9. The applicants seek orders recognising that Rangitāne have Customary Rights, including the rights below, throughout the Rangitāne coastal takiwā and, in particular, the takutai moana abutting/near the areas depicted in **Schedule A**:
 - (a) Gathering kaimoana;
 - (i) Since at least 1840 Rangitāne has gathered kaimoana throughout their coastal takiwā, such as mussels, pipi, pāua, kōura and karengo (with a number of favoured areas for particular species). Traditionally, the kaimoana gathered has also included hāpuku, flounder, kina, kahawai, pāua, kuku/kutae (mussels), pupu (cat's eye snail), limpet, rock lobster and edible seaweeds;
 - (ii) Beach-side kāinga were used as a base to harvest kōura, kina, pāua, oysters and other shellfish. Rangitāne people also collected seaweed for kai, rongoā and other purposes;

- (b) Customary fishing;
 - (i) Since at least 1840, Rangitāne engaged in coastal and deep sea fishing at various places along the Wairarapa coastline. They have fished off the coast for various fish including snapper, kahawai and baby sharks;
 - (ii) Fishing reefs were known, named, and allocated to various hapū for use and there were navigational markers at various points along the Wairarapa coastline. Beach-side kāinga were used as a base to harvest inanga, shark, hāpuku and other fish species;
 - (c) Collection of water and plants;
 - (i) Since at least 1840 sea water has been collected by Rangitāne for ceremonial purposes, for its medicinal properties, and for use when returning inland with kaimoana; and
 - (ii) Over that time specific plants, kai and other resources, including pāua shells and karengo have also been collected from the moana for pharmaceutical purposes. In addition, flax has been collected for educational purposes;
 - (d) Rāhui;
 - (i) Since at least 1840, rāhui have been and continue to be applied by Rangitāne people to place prohibitions over certain areas of the moana in their takiwā, for example, the locations of drownings;
 - (ii) Over the years since 1840 rāhui have regularly been placed in Tautāne, Akitio and Porangahau when drownings have occurred. Over the last 30 years rāhui have laso been applied in the Whakataki area.
10. In addition to the particular areas noted, there are also a number of sites of significance in which Rangitāne have practised and continue to practise these customary rights and accordingly seek to have their right to continue to do so protected. The additional sites include:
- (a) Te Aho o Maui or Cape Turnagain;
 - (b) Uenuku (near Wainui or Herbertville); and
 - (c) Pākuku (rocks located near Wainui Beach) and Taikura (rocks located between the mouth of Porangahau River and north of Blackhead point).
11. The grounds on which the Protected Customary Rights recognition order is sought are:
- (a) The relevant rights have been exercised by Rangitāne, through their various hapū, since at least 1840;
 - (b) Rangitāne continues to exercise those rights in accordance with Rangitāne tikanga; and

- (c) The rights are not extinguished as a matter of law.

Protection of Wāhi Tapu

12. Rangitāne Tū Mai Rā Trust also seeks to include the recognition and protection of wāhi tapu in the customary marine title recognition order.

Holder of the Order

13. The holder of the customary marine title recognition order will be Rangitāne Tū Mai Rā Trust (or other nominated entity), for and on behalf of Rangitāne.

Contact Details for Rangitāne and Rangitāne Tū Mai Rā Trust

14. The contact details for Rangitāne and Rangitāne Tū Mai Rā Trust are:

Mavis Mullins, Chair, Rangitāne Tū Mai Rā Trust

Postal address –

c/- McCaw Lewis Lawyers

PO Box 9348, DX GP 20020

Hamilton 3240

Phone number – 021 365 446

Email – mrmullins@xtra.co.nz

This application is made in reliance on sections 51(1), 58, 78 and 98-113 of the Marine and Coastal Area (Takutai Moana) Act 2011, Rule 19.2(NA) of the High Court Rules 2016 and the Affidavits of Manahi Paewai and Steven Mark Chrisp, both sworn 27 March 2017.

The applicants reserve their right to amend this application if required.

Date: 18 December 2017



A H C Warren/R A Siciliano/L M S Farquhar
Counsel for the Applicants

This amended application is filed by **Aidan Warren, Renika Siciliano** and **Leone Farquhar**, solicitors for the applicants. The address for service of the applicants is at the offices of McCaw Lewis Limited, Solicitors, Level 1, One on London, 1 London Street, (PO Box 9348, DX GP20020), Hamilton 3240.

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

1. Posted to the solicitor at PO Box 9348; or
2. Left for the solicitor at a document exchange for direction to DX GP20020; or
3. Transmitted to the solicitor by email at aidan.warren@mccawlewis.co.nz and renika.siciliano@mccawlewis.co.nz

Schedule A

