

IN THE HIGH COURT OF NEW ZEALAND
WHANGAREI REGISTRY

CIV 2017-485-231

UNDER THE

Marine and Coastal Area (Takutai Moana)
Act 2011, sections 51, 58, 98, 100, 107

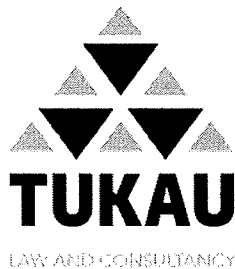
AND

IN THE MATTER OF

an application by Te Runanga o Ngati
Hine for orders recognising Customary
Marine Title and Protected Customary
Rights

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

Dated this 29th day of March 2017



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31 MAR 2017 <i>JS</i>
THE HIGH COURT WELLINGTON

To: The Registrar of the High Court at Whangarei

and

To: The Attorney-General;
The Northland Regional Council;
The Far North District Council; and
Interested parties.

Customary Marine Title and Protected Customary Rights

1. Application to the High Court is hereby made by Te Runanga o Ngati Hine ("the Applicant"), pursuant to s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act"), for orders recognising that Ngati Hine hold, in accordance with their tikanga:

(a) **Customary Marine Title** pursuant to s 58 of the Act to the common marine and coastal areas of the **Te Awa Tapu o Taumarere (Taumarere River)** and **Te Moana o Pikopiko i Whiti**; and/or

(b) **Protected Customary Rights** pursuant to s 51 of the Act, namely shared customary rights of Ngati Hine to carry out activities in the takutai moana within **Te Porowini o Ngati Hine**, such as:

(i) The right to exercise rangatiratanga (chiefly authority), mana i te moana (authority over sea) and kaitiakitanga (guardianship);

(ii) The right to collect customary resources, including, but not limited to, rimurimu (seaweed), including edible types (karengo and parengo), and seaweed used for cultural purposes (such as

piupiu); stones, used for a variety of cultural purposes, including building and cooking; shingle and sand, used for fishing, kumara pits and building; shells, used for ornamentation, jewellery, and fishing lures; bones, used for carving; feathers used for korowai (cloak), jewellery; and

- (iii) The right to use the water for traditional rituals and other cultural purposes.

UPON THE GROUNDS THAT:

The Applicant

- 2. The Applicant represents the interests of Ngati Hine.
- 3. Ngati Hine are tangata whenua and hold rangatiratanga, mana i te whenua (authority over land) and mana i te moana (in some places exclusively, and in others shared) over Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti.

Area to which the application relates

- 4. The Applicant seeks recognition of Customary Marine Title in respect of the common marine and coastal area (as defined in s 9 of the Act) of Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti, being the area set out in the map annexed as **Appendix A**.
- 5. Te Awa Tapu o Taumarere flows from springs at Hokianga in the west coast and from Motatau in the heartland, through to Opuia, the Waikare Inlet and to Ipipiri (the Bay of Islands). The river is salt water up to the mouth of the Tirohanga river. North of Opuia to Te Haumi is called Te Moana o Pikopiko i Whiti.

6. The Applicant seeks recognition of Protected Customary Rights in respect of Te Porowini o Ngati Hine, being the area set out in the map annexed as **Appendix B**.

Ngati Hine

Ko Hineamaru te tupuna
Ko Taumarere te awa
Ko Ngati Hine tona hapu
Ka papā te whatitiri, ka hikohiko te uira, kahukura ki te rangi, he ai tū ka riri, rongomai ka hē
Ko ngunguru, ko ngāngana, ko aparangi, ko te titi o te rua, ko te tao whakawahine.
Ko te motumotu o te riri, Ko te awa o nga rangatira,
Taumarere herehere i te riri
Te puna i Keteriki, te rere i Tīria
E tu atu nei Ngāti Hine pukepuke rau
Ti-hewā mauri ora!!!

7. Ngati Hine is a coastal and inland hapu located in the Bay of Islands.
8. Ngati Hine is at the head waters of four large river catchments: Taumarere; Punakitere (meets Taumarere in Ngapipito (Ngapitopito-e-rua) and drains out to Hokianga); Waitangi (originating at Lake Owhareiti); and, Kaipara (Wairua river).
9. Ngati Hine has exercised rangatiratanga, mana i te whenua, and mana i te moana, over the takutai moana for many generations prior to the signing of Te Tiriti in 1840.
10. Ngati Hine has shared customary rights to the takutai moana within Te Porowini o Ngati Hine.
11. Ngati Hine has never knowingly or willingly relinquished their right to exercise rangatiratanga over the land and foreshore and seabed within their area.
12. Ngati Hine has maintained mana tuku iho (ancestral mana) in the rohe of Ngati Hine.

AND UPON FURTHER GROUNDS contained in the affidavits of Waihoroi Shortland, Pita Tipene, and Rowena Tana.

13. The grounds on which these orders are sought are that:
- (a) Ngati Hine have used and occupied the common marine coastal area within Te Porowini o Ngati Hine from 1840 to the present day without substantial interruption. They are tangata whenua and tangata moana of Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti, having occupied the area for many generations;
 - (b) Ngati Hine have always, and continue to, exercise customary fishing rights, mana tuku iho, tino rangatiratanga, and kaitiakitanga over Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti;
 - (c) Under the tikanga of Ngati Hine, mana i te whenua and mana i te moana is derived from atua, Ngati Hine tupuna (ancestors) and their continual use of their traditional areas, their exclusive occupation, pa (fortified village) sites and wahi tapu (sacred sites/places) and extensive oral histories as well as close whakapapa (genealogy) connections with neighbouring hapu;
 - (d) Mana i te whenua and mana i te moana is evidenced by whakapapa, mana rangatira, ahi ka (continuous occupation), ringa kaha (maintenance of stronghold), pepeha (tribal saying), whakatauki (proverb), waiata (song), pa, kainga (settlement), wahi tapu, tauranga waka (landing places), mahinga kai (garden/cultivation), traditional fishing grounds, place names, kaitiakitanga and so on;

- (e) Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti are taonga and of the highest cultural and spiritual significance for Ngati Hine;
- (f) The significance of Te Awa Tapu o Taumarere and Te Moana o Pikopiko i Whiti is captured in the following words of Ta Himi Henare:

Ko te awa tapu o Taumarere te Taonga
Ko te Whenua te Taonga
Ko te Moana o Pikopiko-i-Whiti te Taonga
He Taonga te Ao Māori.

The sacred river of Taumarere, our treasure
The earth we stand upon, our treasure
The sacred pass of Te Moana o Pikopiko-i-Whiti, our treasure
Being Māori, a gift, a treasure.

- (g) Ngati Hine occupied lands inland, along the Taumarere and at Opuia;
 - (h) The Customary Marine Title and Customary Protected Rights have never been extinguished as a matter of law;
- 14. The application is made in reliance on ss 51(1), 58, 98, 100, 101, and 107 of the Marine and Coastal Area (Takutai Moana) Act 2011.
 - 15. The Applicant seeks leave to amend this application if necessary.

The orders

- 16. The orders should be made in the name of Te Runanga o Ngati Hine on behalf of Ngati Hine
- 17. It is proposed that the holder of the order is Waihoroi Shortland, Chairperson of Te Runanga o Ngati Hine.

Additional matters

18. Ngati Hine have made an urgent claim to the Waitangi Tribunal that the Act is prejudicial to their customary rights and inconsistent with Te Tiriti.
19. Ngati Hine note for the record that this application should not be construed as acceptance of the statutory regime for the recognition of their customary rights.
20. Ngati Hine will continue to seek a full Waitangi Tribunal inquiry into the prejudicial nature of the legislation.

DATED at Pakaraka this 29th day of March 2017



Season-Mary Downs
Solicitor for the Applicant

This document is filed by Season-Mary Downs, solicitor for the Applicant, of Tukau Law. Documents for service on the applicant may be:

- (a) Posted to: 91 Hupara Road, RD2, Kaikohe, Northland 0472; or

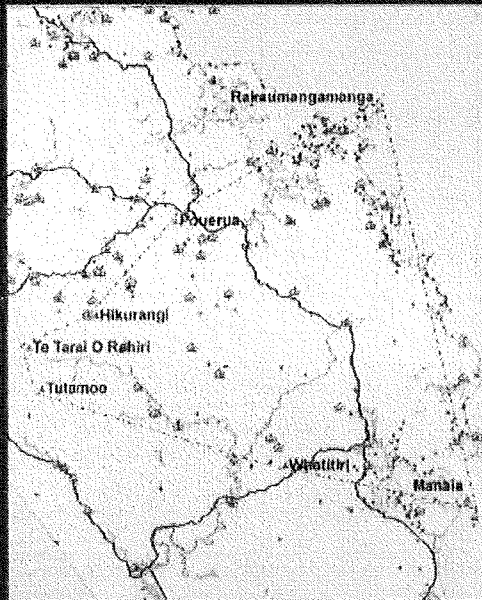
Emailed to: seasonmarydowns@tukaulaw.co.nz

APPENDIX A



APPENDIX B

Te Porowini o Ngati Hine



I rohetia e Maihi i teneti takiwa hei
Rohe Tangata mo Ngati Hine i te
tau 1878:

*"Hikurangi titiro ki Pouerua, Pouerua
titiro ki Rakaumangamanga,
Rakaumangamanga titiro ki Manaia,
Manaia titiro ki Whatitiri, Whatitiri
titiro ki Tutamoo, Tutamoo titiro ki te
Tarai o Rahiri, Te Tarai o Rahiri titiro
ki Hikurangi ki nga Kiekie whawhanui
a Uenuku.*

*'This area was identified by Maihi
Kawiti as the 'Te Porowini o Ngati
Hine' or the 'Province of Ngati
Hine'.*

