

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

No: CIV:2017-485-233

UNDER THE

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

AND

IN THE MATTER

of an application by **Michael  
John Williams** on behalf of  
Ngāi Tupango for orders  
recognising Customary Marine  
Title and Protected Customary  
Rights

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Originating Application on Notice for Recognition Orders  
Pursuant to the Marine and Coastal Area (Takutai Moana) Act  
2011

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**TamakiLegal**  
Barristers & Solicitors

Case Manager  
Next Event: / /  
- 3 APR 2017  
THE HIGH COURT  
WELLINGTON

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**To the Registrar of the High Court** at Wellington  
and

**To the Far North District Council, Northland Regional Council, and the  
Solicitor General** on behalf of the Attorney General

**This document notifies you that —**

1. The Applicant Michael John Williams (“the Applicant”) will, on 3 April 2017, apply to the Court for Recognition Orders under s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”).
2. The Applicant will seek a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of s 58 of the Act.
3. The Applicant will seek to include the recognition of wāhi tapu and wāhi tapu areas in any CMT Order made pursuant to s 78 of the Act.
4. The Applicant will seek a Recognition Order for Protected Customary Rights (“PCRs”) under the requirements of section 51(1) of the Act.

**The Applicant Group**

5. The applicant group is Ngāi Tupango (“the Applicant Group” or “Ngāi Tupango”).
6. Ngāi Tupango are located in Wainui Bay, Piapia Bay, Taiaue Bay and Te Ngaere of Northland, New Zealand.

**Representative of Applicant Group/Holder of the order**

7. The person who will be the representative of the Applicant Group and the holder of any Recognition Orders made is Michael John Williams.

8. Contact details for the named representative, Michael John Williams, are as follows:
- a. Postal address: 208 Otangaroa Road, Kaeo; or
  - b. Email: [lorreen.broughton@northlanddhub.org.nz](mailto:lorreen.broughton@northlanddhub.org.nz); or
  - c. Telephone: 0212942261
9. The contact details for the Applicant Group are the same as those for Michael John Williams.

### **Affidavit in Support of Application**

10. The Affidavit of Michael John Williams in support of this Originating Application is attached ("the Affidavit").

### **Particular Area to which Application Relates**

11. The Specified Area to which this application relates is the common marine and coastal area, as defined in s 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 northward side by a line that extends from the coast abutting Wainu<sup>1</sup> to the outer limits of the territorial sea; and
  - d. on the southward side by a line that extends from the coast abutting Opounui<sup>2</sup> to the outer limits of the territorial sea.

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<sup>1</sup> Latitude -35.0013863, Longitude 173.8531494.

("the Specified Area")

12. The Specified Area includes Panaki Island.<sup>3</sup>
13. A map showing the Specified Area is at **Page 2** of the Exhibit to the Affidavit.

#### **Grounds for CMT Application**

14. The Applicant Group holds the Specified Area in accordance with tikanga.
15. The Applicant Group has exclusively used and occupied Piapia Bay, Wainui Bay, Taiaue Bay, and Panaki Island from 1840 until the present day.
16. Title to the Specified Area has not been extinguished as a matter of law.
17. Further grounds for a CMT Order include the following.
  - a. Members of the Applicant Group own lands abutting the Specified Area; and
  - b. The Applicant Group exercise their non-commercial customary fishing rights within the Specified Area, and have done so from 1840 to the present day

#### **Wāhi Tapu**

18. Various wāhi tapu and wāhi tapu areas, of importance to the Applicant Group are located within the Specified Area.

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<sup>2</sup> Latitude -35.0094713, Longitude 173.8930607.

<sup>3</sup> Latitude -34.9757202, Longitude 173.9544296.

19. If this application for a CMT recognition Order is successful, the Applicant Group will seek to include recognition of the wāhi tapu as part of any CMT Order made under s 78 of the Act.
20. For the purposes of this application, the Applicant reserves the right to apply for the inclusion of additional wāhi tapu with any CMT Order that may be granted where knowledge of the additional wāhi tapu is gained by the Applicant Group as a result of consultation with any Pūkenga appointed by the Court, or as a result of any historical research that is commissioned in relation to the making of the application for a CMT Order.

### **Protected Customary Rights**

#### *Tauranga Waka*

21. The Applicant Group accesses a tauranga waka site within the Specified Area.
22. The Applicant Group launch their boats for related nautical activities from the tauranga waka.

#### *Mataatua Waka*

23. The Mataatua is an important ancestral waka of the Applicant Group.
24. The Mataatua was sunk in and is presently located in a tidal creek in Takou Bay, which is to the south of the Specified Area.
25. A Protected Customary Rights Order is sought for continued access to the Mataatua.

#### *Kaitiakitanga*

26. Kaitiakitanga involves guardianship, conservation, education and protection measures and practices.

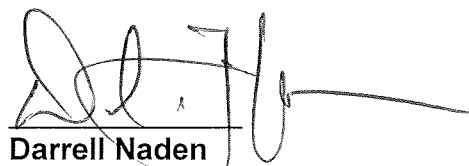
27. The Applicant Group practices kaitiakitanga in respect to the Specified Area.
28. Access to all parts of the Specified Area is a key requirement of the Applicant Group's continued practice of kaitiakitanga.
29. The PCRs described above:
  - a. Have been exercised since 1840;
  - b. Continue to be exercised by Ngai Tupango in the Specified Area in accordance with tikanga; and
  - c. Are not extinguished as a matter of law.

### **Memorandum**

This document is filed by **Darrell Naden**, Solicitor for the Applicant Group, of the firm Tamaki Legal Limited. The address for service of the Applicant Group is at the offices of Tamaki Legal Limited, Level 2, AMI Building, 15 Osterley Way, Auckland, 2104, New Zealand. Documents for service on the Applicant Group may be left at that address for service or may be –

- posted to the Solicitors at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at [darrell@tamakilegal.com](mailto:darrell@tamakilegal.com)

3/4/2017



**Darrell Naden**  
**Solicitor for Applicant**