

**In the High Court of New Zealand
Wellington Registry**

CIV-2017-485-236 CIV

In the matter of the Marine and Coastal Area (Takutai Moana) Act 2011

In the matter of An application by Te Runanga o Whaingaroa Incorporated for orders recognising protected customary rights and customary marine title under Section 100(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 Act.

Originating application for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011

Dated 3 April 2017



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To: The Registrar of the High Court at Wellington

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

And to: The Far North District Council and Northern Regional Council

THIS DOCUMENT NOTIFIES YOU THAT–

- 1 The applicants will at _____ am/pm apply to the Court under section 100(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 (**'the Act'**), for recognition orders made under section 98(1) for:
 - a Protected customary rights over the area covered by this application (the **'Application Area'**); and
 - b Customary marine title over the Application Area.

APPLICANTS

- 2 The applicant group is an iwi collective known as Ngapuhi / Ngati Kahu ki Whaingaroa, and are more particularly described in the affidavit of Archie Waihora More Himiona dated 30 March 2017.
- 3 The applicant group is represented Te Runanga o Whaingaroa Trust (**Trust**), who are the applicants in this application. The Trust is a charitable trust incorporated under the Charitable Trusts Act 1957 on 1 November 2005.
- 4 A copy of the deed of trust by which this trust was established is attached to and marked as Attachment **'B'** to the affidavit of Archie Waihora More Himiona dated 30 March 2017.

THE APPLICATION AREA

- 2 The Application Area is that part of the Marine and Coastal Area (as defined by the Marine and Coastal Area (Takutai Moana) Act 2011), from Berghan's Point in the North, out to 12 nautical miles and along the eastern coastline heading south to Rocky Point in the Purerua Peninsula.
- 3 This application also covers the groups of islands off the coastline, including the Moturoa Islands, Stephenson Island, the group of islands in the Whangaroa Harbour (including Peach Island) and the Cavalli Islands east of

Opounui Point, the Kermadec Islands and 12 nautical miles out from the coastlines of these islands as described in paragraphs 36 to 39 of the affidavit of Archie Waihora More Himiona dated 30 March 2017.

- 5 The extent of the coastline that is subject to this application is shown on a map attached to and marked as Attachment 'C' to that affidavit. The two points indicated on the map indicate the area of coastline applied for (although it does not indicate in detail each of the islands this application relates to).

GROUNDS FOR APPLICATION

- 6 The grounds on which each recognition order is sought are as follows:
- a The applicant seeks an order recognising its protected customary rights as it satisfies the requirements for such an order, under section 51(1) of the Act. The applicant:
 - i Has exercised its customary rights since 1840;
 - ii Continues to exercise its rights in the Marine and Coastal Area in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time;
 - iii Is applying for rights that have not been extinguished as a matter of law; and
 - iv On the further grounds set out in the affidavit of Archie Waihora More Himiona dated 30 March 2017.
 - b The applicant seeks an order recognising its customary marine title over the Marine and Coastal Area as it satisfies the requirements for such an order under section 58 of the Act. The applicant:
 - i Holds the Application Area in accordance with tikanga;
 - ii Has exclusively used and occupied the Application Area from 1840 to the present, without substantial interruption to that use and occupation;
 - iii Have exercised non-commercial customary fishing rights in the Marine and Coastal Area, and have done so from 1840 to the present day; and
 - iv Have owned land abutting the Marine and Coastal Area, and have done so, without substantial interruption, from 1840 to the present day; and

- v Is applying for rights that have not been extinguished as a matter of law; and
- vi On the further grounds set out in the affidavit of Archie Waihora More Himiona dated 30 March 2017.

APPLICATION MADE IN RELIANCE

- 7 The application is made in reliance on:
- a Sections 51(1), 58, 59, 94, 98, 100, 101 and 107 of the Act;
 - b The affidavit of Archie Waihora More Himiona dated 30 March 2017 in support of this application; and
 - c Further evidence to be filed on behalf of the applicant.

CONTACT DETAILS

- 8 The contact details for the applicants and the party named to hold the orders is:

Te Runanga o Whaingaroa Inc
Cnr. Waikare Ave & State Highway 10
PO Box 88, Kaeo
Mobile: 021 280 2841
Email: Toa.Faneva@whaingaroa.iwi.nz

ORDERS SOUGHT

- 9 The applicant respectfully seeks the following orders:
- a Recognising that Te Runanga o Whaingaroa Incorporated, for and on behalf of Ngapuhi / Ngati Kahu ki Whaingaroa, has protected customary rights in, and customary marine title over, the Marine and Coastal Area;
 - b Setting out that recognition be made in the name of Te Runanga o Whaingaroa Incorporated for and on behalf of Ngapuhi / Ngati Kahu ki Whaingaroa;
 - c That Te Runanga o Whaingaroa Incorporated are named as the holder of the protected customary rights and customary marine title orders for and on behalf of Ngapuhi / Ngati Kahu ki Whaingaroa; and

- d Costs in the event that this applicant is opposed by any other party.

Dated 3 April 2017.



Deborah Edmunds
Solicitor / Counsel for the Applicant

Address for service:

This document is filed by **Deborah Edmunds**, solicitor for the Applicant, of the firm Kensington Swan, Wellington. The address for service of the is 89 The Terrace, Wellington 6011. Documents for service on the applicant may be left at the address for service, or may be –

- a Posted to the solicitor at c/- Kensington Swan, Private Bag 10 246, Wellington 6143; or
- b Left for the solicitor at a document exchange for direction to Kensington Swan, SP26517, Wellington; or
- c Emailed to deborah.edmunds@kensingtonswan.com