

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

No: CIV: CIV-2017-485-238

UNDER THE

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

AND

IN THE MATTER

of an application **Bella
Arapera Savage and
Waipae Persese** on behalf
of **Te Whānau ā Te
Harāwaka** for orders
recognising Customary
Marine Title and Protected
Customary Rights

**Originating Application on Notice for Recognition Orders Pursuant to the
Marine and Coastal Area (Takutai Moana) Act 2011
Dated: 3 April 2017**

TamakiLegal

Barristers & Solicitors

Level 2, 15 Osterley Way, Manukau, Auckland 2104
PO Box 75517, Manurewa, Auckland 2243
P. 09 263 5240

E. darrell@tamakilegal.com



**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY No: CIV**

To the Registrar of the High Court at Wellington

and

To The Bay of Plenty Regional Council

and

To The Gisborne District Council

and

To The Opotiki District Council

This document notifies you that —

1. The Applicants **Bella Arapera Savage** and **Waipae Perese** (“the Applicants”) on behalf of Te Whānau ā Te Harāwaka 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 Applicants will seek a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of section 58 of the Act.
3. The Applicants will seek to include wāhi tapu as part of any CMT Order made pursuant to section 78 of the Act.
4. The Applicants will seek a Protected Customary Right (“PCR”) Recognition Order pursuant to s 51(1) of the Act.

The Applicant Group

5. Te Whānau ā Te Harāwaka (“the Applicant Group” or “Te Whanau a Te Harāwaka”) and they are a hapū of Te Whanau a Apanui iwi, whose traditional rohe is situated in the North-Eastern Bay of Plenty.

Representative of Applicant Group

6. The persons who will be the representatives of the Applicant Group and the holders of the Court Order are Bella Arapera Savage and Waipae Perese (“the Representatives”).

Contact Details

7. The contact details for the Representatives are care of Bella Savage and are as follows:
 - a. Mail address—PO Box 169, Te Teko, 3167;
 - b. Telephone—07 315 6663
 - c. Email—bsavage@hotmail.co.nz
8. The contact details for Te Whānau ā Te Harāwaka are care of Bella Savage and set out above.

Specified Area to which Application Relates

9. The common marine and coastal area to which this application relates is the common marine and coastal area, as defined in section 9 of the Act, that is bounded:
 - a. on the landward side by the line of mean high-water springs; and
 - b. on the seaward side by the outer limits of the territorial sea; and
 - c. on the northward side by a line that extends from the western bank of the Hāwai River¹ to the outer limits of the territorial sea; and
 - d. on the southward side by a line that extends from the eastern bank of the Motu River² to the outer limits of the territorial sea.

("the Specified Area")

¹ Latitude -37.9192845, Longitude 177.5318527.

² Latitude -37.8515434, Longitude 177.5876427.

Grounds for CMT Application

10. The Applicant Group holds the Specified Area in accordance with tikanga.
11. The Applicant Group has exclusively used and occupied the Specified Area from 1840 until the present day.
12. Title to the Specified Area has not been extinguished as a matter of law.
13. The Specified Area is held on the further grounds contained in the **attached** Affidavit of Bella Arapera Savage.

Wāhi Tapu

14. Various wāhi tapu and wāhi tapu areas, of importance to the Applicant Group are located within the Specified Area.
15. The Applicant and Te Whānau ā Te Harāwaka will seek to include recognition of the wāhi tapu in any Recognition Order that is made pursuant to section 78 of the Act.
16. 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 pukenga 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.

Description of Protected Customary Right

Kaitiakitanga

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

18. The Applicant Group practices kaitiakitanga in respect to the Specified Area.
19. Access to all parts of the Specified Area is a key requirement of the Applicant Group's continued practice of kaitiakitanga.
20. The Protected Customary Rights described above have—
 - a. 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 Cy Frederick Naden, Solicitor for the Applicant Group, of the firm Tamaki Legal Limited of Auckland. The address for service of the Applicant Group is at the offices of Tamaki Legal Limited, AMI Building, Level 2, 15 Osterley Way, Auckland, 2104, New Zealand.

Documents for service on the Applicants may be left at that address for service or may be –

- posted to the Solicitor at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at darrell@tamakilegal.com

Date: 3 April 2017


Darrell Naden
Solicitor for Applicants