

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

2017-485-246
~~CIV-313-2017~~

IN THE MATTER OF an application under the Marine
and Coastal Area (Takutai
Moana) Act 2011

BETWEEN

Rapihana Te Kaha Hawaikirangi
for and on behalf of
NGĀTI PĀRAU
Applicant

AND

The Attorney-General
Respondent

**Application under
section 101 Marine and Coastal Area (Takutai Moana) Act 2011**

31 MARCH 2017

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

Rapihana Te Kaha Hawaikirangi

36 Trinity Crescent
Pirimai, Napier

tkhawai@gmail.com

DISTRICT/HIGH COURT
- 3 APR 2017
NAPIER

**Application under
section 101 Marine and Coastal Area (Takutai Moana) Act 2011**

To: Registrar, High Court Wellington

And to: The Respondent by its solicitor

Take notice that the applicant on behalf of **NGATI PĀRAU HAPŪ** will apply to the High Court for the following orders:

- A. Under section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”), recognising a protected customary right (a “Protected Customary Rights Order”); and
- B. Under section 98 of the Act, recognising customary marine title (a “Customary Marine Title Order”);

As described herein:

- 1. Pursuant to section 101(b) of the Act, the description of the protected customary right sought in the Protected Customary Rights Order is the right to exercise all aspects of *te tino rangatiratanga o Ngāti Pārau hapū* in relation to the “**Ngāti Pārau hapū takutai moana area**”;
- 2. Pursuant to section 101(c) of the Act, the applicant group is Ngāti Pārau hapū, being those descendants of Tareha Te Moananui who affiliate to the whanau, marae and hapu of Ngati Parau;
- 3. Pursuant to section 101(d) of the Act, the **Ngāti Pārau takutai moana area** to which the application relates is that area 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 which includes the beds of rivers, the airspace and the water space above, and the subsoil, bedrock and other matter including natural resources within the Ngāti Pārau takutai moana area, as follows:

- Moana between land marked areas located north and south of Napier City.
- The northernmost land mark is the Ahuriri harbour entrance and Ahuriri inner-estuarine area. GPS co-ordinance as follows: latitude -39.47955 Longitude 176.89449.
- The area extends out to include Pania reef, then heads across on an easting bearing out to 12 nautical miles.
- The area out to 12 nautical miles from the northern most point heads south along the 12 nautical mile boundary until it intersects on an eastern bearing with the southernmost land mark.
- The southernmost point ends approximately 11km South of the old harbour entrance at the southern end of the Tutae o Mahu block. GPS co-ordinance as follows: Latitude -39.53664 Longitude 179.91988.

Upon the Grounds

4. The right to exercise all aspects of *te tino rangatiratanga o Ngāti Pārau hapu* is a right that:
 - a. Has been exercised prior to, and since, 1840; and
 - b. Continues to be exercised in the Ngāti Pārau takutai moana area in accordance with tikanga by the applicant group; and
 - c. Is not extinguished as a matter of law.
5. The applicant group Ngāti Pārau hapū holds the Ngāti Pārau takutai moana area in accordance with tikanga;
6. The applicant group Ngāti Pārau hapū has, in relation to the Ngāti Pārau takutai moana area:

- a. Exclusively used and occupied it from 1840 to the present day without substantial interruption; and/or
 - b. Received it through a customary transfer between or among members of the applicant group in accordance with tikanga (as defined in section 58(3) of the Act);
7. The applicant group Ngāti Pārau hapū owns land abutting the Ngāti Pārau takutai moana area (as defined in section 59 of the Act);
 8. The applicant group Ngāti Pārau hapū exercise non-commercial customary fishing rights in the Ngāti Pārau takutai moana area and have done so from before 1840 to the present day;
 9. The person to be the holder of the Recognition Orders as the representative of the applicant group shall be the chairperson at any particular time of the Waiohiki Marae Committee.

And upon the grounds identified in the affidavits filed in support of this application.

This application relies on section 101 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Dated this 31st day of March 2017

Ngāti Pārau Hapū Representative



Rapihana Te Kaha Hawaikirangi