

In the High Court of New Zealand
Christchurch Registry

CIV-2017-485-266

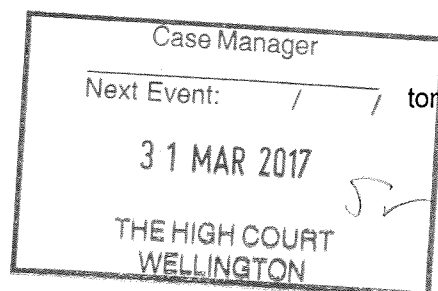
In the matter of the Marine and Coastal Area (Takutai
Moana) Act 2011

And in the matter of an application by Ngai Tū-āhu-riri hapu
represented by the Upoko o Ngai Tū-āhu-
riri for orders that recognise their
customary marine title and protected
customary rights under that Act

APPLICATION FOR RECOGNITION ORDERS

Dated 30 March 2017

Counsel: Tom Bennion
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To: The Registrar of the High Court at Christchurch

And to: Tasman District Council
Nelson City Council

Marlborough District Council

Canterbury Regional Council

Hurunui District Council

Kaikoura District Council

Waimakariri District Council

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

THIS DOCUMENT NOTIFIES YOU THAT:

1. The Te Upoko o Ngai Tū-āhu-riri, on behalf of the applicant group, Ngai Tū-āhu-riri, will on 30 March 2017 apply to the Court for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) relating to a particular area of the common marine and coastal area (the Ngai Tū-āhu-riri Application Area) being:
 - 1.1. First, Ngai Tū-āhu-riri have exclusive customary rights from the Wairau River Mouth south to the Hurunui River, on the basis that they recognise the authority of Ngati Kuri, but in the absence of their claims they assert their 'take-whenua, take-moana';
 - 1.2. Second, Ngai Tū-āhu-riri have exclusive customary rights for the area from the Hurunui River mouth, then south along the coastline finishing at the takiwa of the Rapaki people which starts at the Whakaraupo Catchment, the Lyttleton Harbour. This includes Motunau Island.
 - 1.3. Third, from the Whakaraupo Harbour around Bank's Peninsula, Ngai Tū-āhu-riri have exclusive customary interests to the foreshore and seabed in the absence of the principal hapu to that region making such claims. They do so on the basis that they recognise the authority of their kin hapu but in the absence of their claims they assert their 'take-whenua, take-moana' as their hapu, Ngai Tuhaitara, led the conquest of Bank's Peninsula under the leadership of Moki and the Ngai Tuhaitara chiefs (Turakautahi, Huikai, Taane Tiki, Maka, Hikaturae, Te Ake).

1.4. Fourth, Ngai Tū-āhu-riri have shared customary interests from the coast south of Banks Peninsula where Ngai Tū-āhu-riri customary interests adjoins with those of Ngati Irakehu and moves towards the boundaries of Ngati Ruahikihiki and Ngati Huirapa down to the Hakatere River. They do not make a customary claim to Kaitorete Spit and leave that claim to the relevant hapu. However, in the absence of those hapu making their claim, they claim Kaitorete in their stead. South of Kaitorete, their interests are shared with Ngati Ruahikihiki and Ngati Huirapa as far as the Hakatere River.

2. The orders sought are protected customary rights and customary marine title in the Ngai Tū-āhu-riri Application Area arising from:

2.1. The taking of fish, flora and fauna including:

Tuna	Eel
Inaka	Large whitebait
Mata	Whitebait
Kokopu	Native Trout
Koukoupara	Cockabully
Parera	Grey Duck
Putakitaki	Paradise Duck
Raepo	Unidentified, possibly raupō which is the bulrush.
Tataa	Spoonbill Duck
Pateke	Teal
Aruhe	Fern root
Titi (on Banks Peninsula)	

2.2. Taking of kekeno (seals), whale, penguins and dolphins.

2.3. Taking of shellfish including mussels, oysters, kina, pāua, kōura, crabs and others.

2.4. Taking seaweeds and other plants, for food, crafts and rongoā.

2.5. Collecting from the beaches and reefs sand and stones, as well as driftwood and other items that wash up.

2.6. Use of the foreshore and seabed for landing places and as a place to process mahina kai, including the use of whata.

2.7. Use of the foreshore and seabed for teaching, karakia, and practicing our spiritual beliefs.

2.8. Naming places in the sea to specify areas for gathering kaimoana and some of those places are associated with particular families.

- 2.9. Having whakapapa and traditions to the freshwater along the foreshore and seabed as well as the taxonomy to the waves and the effects of those natural phenomena.
- 2.10. Using the sea for recreational activity and navigating the oceans according to their own traditions.
- 2.11. All other associated customary uses of the Ngai Tū-āhu-riri Application Area.

DESCRIPTION OF APPLICANT GROUP

3. Ngai Tū-āhu-riri are an iwi that historically occupied from Awaroa (Godley Head) and the Hakatere River mouth to the Wairau River and Te Parinui o Whiti (Cloudy Bay).
4. Ngai Tū-āhu-riri hapu is represented today by Te Upoko o Ngai Tū-āhu-riri whose members whakapapa from the eponymous Ngai Tū-āhu-riri ancestor.
5. The Upoko o Ngai Tū-āhu-riri is the customary head of the hapu.

GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT

6. Ngai Tū-āhu-riri through the Te Upoko o Ngai Tū-āhu-riri seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the Ngai Tū-āhu-riri Application Area may be recognised by an order of the Court made on an application under section 100 of the Act.
7. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
8. The Applicant Group meets the requirements in s 51(1) of the Act because it:
 - 8.1. has exercised the rights before and since 1840;
 - 8.2. continues to exercise those rights in the Ngai Tū-āhu-riri Application Area in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
 - 8.3. is applying for rights that have not been extinguished as a matter of law.

GROUNDS ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION ORDER IS SOUGHT

9. Ngai Tū-āhu-riri through the Te Upoko o Ngai Tū-āhu-riri seeks a customary marine title recognition order on the grounds that its customary marine title relating to the Ngai Tū-āhu-riri Application Area may be recognised by an order of the Court made on an application under s 100 of the Act.
10. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.
11. The Applicant Group meets the requirements in s 58 of the Act because it:
 - 11.1. holds the Ngai Tū-āhu-riri Application Area in accordance with tikanga;
 - 11.2. has, in relation to the Ngai Tū-āhu-riri Application Area, exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
 - 11.3. the customary marine title has not been extinguished as a matter of law.
12. In terms of matters that may be taken into account in determining whether the Applicant Group's customary marine title exists in the Ngai Tū-āhu-riri Application Area:
 - 12.1. the Applicant Group have owned land adjoining the Ngai Tū-āhu-riri Application Area and have done so, without substantial interruption, from 1840 to the present day; and
 - 12.2. the Applicant Group have exercised non-commercial customary fishing rights in the Ngai Tū-āhu-riri Application Area and have done so from 1840 to the present day.

PERSON TO HOLD THE ORDERS

13. Te Upoko o Ngai Tū-āhu-riri will be the holder of the orders as the representative entity of Ngai Tū-āhu-riri.

APPLICATION MADE IN RELIANCE

14. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the

affidavit of Rawiri Te Maire Tau which sets out the basis on which Ngai Tū-āhu-riri are entitled to the recognition orders sought.

CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER

15. The contact address of the Applicant and person named to hold the order is:

Te Maire Tau
Te Upoko o Ngai Tū-āhu-riri
c/- Tuahiwi Marae
219 Tuahiwi Road, Tuahiwi, RD 1, Kaiapoi

16. The contract telephone number is: 02102855911

17. The contract email is: temaire.tau@canterbury.ac.nz

Dated at Wellington this 31st day of March 2017



Thomas Bennion

Counsel for the Te Upoko o Ngai Tū-āhu-riri

This document is filed by Thomas Bennion, Solicitor for Te Upoko o Ngai Tū-āhu-riri.

The address for service of the Te Upoko o Ngai Tū-āhu-riri is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

Documents for service on the above-named applicant may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street, Wellington 6146; or Transmitted to the solicitor by email to tom@bennion.co.nz.