

IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY No: CIV: 2017-485-267

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

AND

IN THE MATTER of an application by **Kahura  
James Watene**, on behalf of  
Tukōkō and Ngāti Moe for an  
order recognising Customary  
Marine Title

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

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**TamakiLegal**  
Barristers & Solicitors

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

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

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

and

**To**, the South Wairarapa District Council and the Solicitor General on behalf of the Attorney General.

**This document notifies you that —**

1.        The Applicant **Kahura James Watene** will, on 3 April 2017, apply to the Court for a Recognition Orders pursuant to 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”) under the requirements of s 58 of the Act.
3.        The Applicant will seek a Recognition Order for a Protected Customary Right (“PCR”) under the requirements of s 51(1) of the Act.

**The Applicant Group**

4.        The Applicant Group is comprised of two hapū – Tukōkō and Ngāti Moe (“the Applicant Group”).
5.        Tukōkō and Ngāti Moe are hapū of Ngāti Kahungunu.
6.        Tukōkō is principally from the Tuhirangi-Pirinoa area while Ngāti Moe is from the Papawai-Greytown area.

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

7.        The person who will be the representative of the Applicant Group and the holder of the Recognition Orders is Kahura James Watene.

## Contact Details

8. Contact details for the named representative Kahura James Watene are:
  - i. Telephone number—0211284639
  - ii. Physical Address—1/19 Pah Road, Papawai, Greytown, 5794.
9. Contact details for Ngāti Moe and Tukōkō are care of Kahura James Watene

## Specified Area to which Application Relates

10. The common marine and coastal area to which this application relates to is an area of coastline in the Wairarapa region of the North Island.
11. The coastline is bounded by Lake Ferry<sup>1</sup> in the northeast and Mataikona,<sup>2</sup> which is commonly known as Cape Palliser, in the southwest. The seaward extent of the marine area extends to a point that is approximately half way between the North and South Islands and then to the edge of the territorial sea at 12 nautical miles (“the Specified Area”).
12. **Attached** to the affidavit of Kahura James Watene is a map of the Specified Area.

## Grounds for CMT Application

13. The Applicant Group holds the Specified Area in accordance with tikanga; and
14. The Applicant Group has exclusively used and occupied the Specified Area from 1840 until the present day.

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<sup>1</sup> Latitude-41.397403, Longitude-175.141133.

<sup>2</sup> Latitude-41.613703, Longitude-175.289630.

15. Title to the Specified Area has not been extinguished as a matter of law.
16. The Applicant Group owns lands abutting the Specified Area.
17. The Applicant Group has exercised their non-commercial customary fishing rights in the Specified Area since 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.
19. If the application for a CMT recognition order is successful, the Applicant Group and the Applicant will seek to include recognition of these wāhi tapu in any Recognition Order made pursuant to s 78 of the Act.
20. The wāhi tapu within the Specified Area are ancient.
21. 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.

### **Protected Customary Rights**

#### *Kaitiakitanga*

22. Kaitiakitanga involves guardianship, conservation, education and protection measures and practices.
23. The Applicant Group practices kaitiakitanga in respect to the Specified Area.

24. Access to all parts of the Specified Area is a key requirement of the Applicant Group's continued practice of kaitiakitanga.
25. 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.

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

26. The Affidavit of Kahura James Watene in support of this Originating Application is attached.

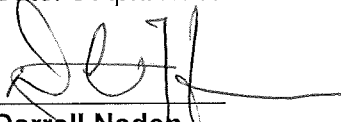
### **Memorandum**

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, AMI Building, 15 Osterley Way, Auckland, 2104, New Zealand.

Documents for service on the applicant 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)

Date: 3 April 2017

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