

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

**No:**

CIV-2017-485-302

**IN THE MATTER OF**

an application under the Marine and Coastal Area  
(Takutai Moana) Act 2011

**AND**

**IN THE MATTER OF**

an application by Tate Pewhairangi on behalf of Te  
Whanau a Ruataupare ki Tokomaru

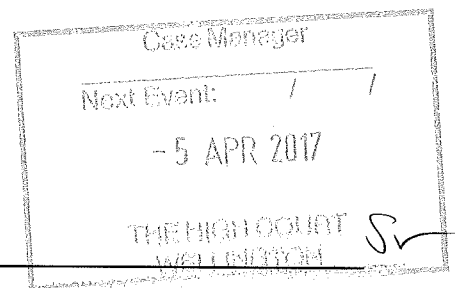
**Applicant**

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**An application by Tate Pewhairangi for recognition orders pursuant to the Marine and  
Coastal Area (Takutai Moana) Act 2011**

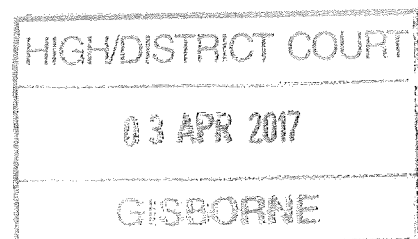
**3 April 2017**

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**KAHUI**  
LEGAL

PO Box 1654, Wellington 6140  
Telephone: 04 495 9999  
Facsimile: 04 495 9990  
Counsel: M K Mahuika/N R Milner  
**WELLINGTON**



**TO**                    **The Registrar of the High Court at Wellington**  
**AND TO**            **The Solicitor-General on behalf of the Attorney-General**  
                          **Gisborne District Council**  
                          **Bay of Plenty Regional Council**  
                          **Opotiki District Council**

**THIS DOCUMENT NOTIFIES YOU THAT:**

- A.    The applicant, Tate Pewhairangi, on behalf of Te Whanau a Ruataupare, a hapu of Ngati Porou will on 3 April 2017, apply to the High Court for orders recognising customary marine title pursuant to sections 98 and 100 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**Act**).
- B.    The grounds on which the orders are sought are as follows:

**Background**

1.    Prior to 1840, Te Whanau a Ruataupare were the iwi kaenga, held mana (authority) over, and were therefore the owners, of all of their coastal lands within their rohe (territory) that are contiguous to the marine and coastal area.
2.    Te Whanau a Ruataupare were the iwi kaenga, held mana over, and were therefore the owners, of the seaward area adjacent to their coastal lands rohe. Te Whanau a Ruataupare considered these seaward areas to be a part of their rohe.
3.    Since 1840, Te Whanau a Ruataupare have retained ownership of a significant proportion of their coastal lands. Te Whanau a Ruataupare have also continued to exercise mana over the seaward areas within their rohe.
4.    Te Whanau a Ruataupare continue to assert ownership to seaward areas within their rohe. This assertion is based on the common law, statute and tikanga and, amongst other things, Te Whanau a Ruataupare's unbroken occupation, the continued exercise of ancestral mana, and the fact that title to the seaward areas in their rohe has never been ceded to the Crown. This ownership assertion of ownership predates the signing of te Tiriti o Waitangi/the Treaty of Waitangi in 1840.



5. Sections 94 and 98 of the Act confer on the High Court the jurisdiction to make an order recognising customary marine title, provided that the applicant group meets the tests for customary marine title set out under section 58 of the Act.

**Orders sought (section 101(a))**

6. The applicant seeks recognition orders from the High Court under section 98 of the Act for customary marine title over an area of the common marine and coastal area in the vicinity of Tokomaru Bay. The applicant considers the tests for customary marine title set out under section 58 of the Act are satisfied.

**The applicant group (section 101(c))**

7. The applicant group is Te Whanau a Ruataupare.

**The application area (section 101(d))**

8. The particular area of the common marine and coastal area to which this application relates is the common marine and coastal area within the rohe of Te Whanau a Ruataupare, which extends from Waitakeo to Te Puka, and then to Te Mawhai, from a landward boundary of the mean high water springs and extending 12 nautical miles in a seaward direction, further described by reference to the area shown in **Appendix 1** to this application.

**Grounds on which the application is made (section 101(e))**

9. The grounds on which the requirements for customary marine title are satisfied under section 58 of the Act are as follows:
  - (a) Te Whanau a Ruataupare holds the application area in accordance with tikanga (section 58(1)(a));
  - (b) Te Whanau a Ruataupare has, in relation to application area, exclusively used and occupied this area from 1840 to the present day without substantial interruption (section 58(1)(b));
  - (c) Te Whanau a Rautaupare own all or a significant amount of the land abutting the application area and have done so without substantial interruption from 1840 to the present day (section 59(1)(a)(i));



- (d) Te Whanau a Ruataupare exercises non-commercial customary fishing rights in the application and have done so from 1840 to the present day (section 59(1)(a)(ii)); and
- (e) as further set out in the affidavit of Tate Pewhairangi, sworn 3 April 2017, in support of this application.

**The holder of the recognition orders (section 101(f)-(g))**

10. For the purposes of this application the holder of the recognition orders on behalf of Te Whanau a Ruataupare will be Tate Pewhairangi and any additional individuals to be appointed by Te Whanau a Ruataupare.
11. The contact details for the applicant, for the time being and pending further notice, is:

Tate Pewhairangi  
c/o Kahui Legal  
PO Box 1654  
Wellington 6140

12. The applicant, on behalf of Te Whanau a Ruataupare seeks leave to amend this aspect of the application at a later date.

**Affidavit in support (section 101(h))**

13. This application is supported by the affidavit of Tate Pewhairangi. The affidavit sets out the basis on which Te Whanau a Ruataupare claim to be entitled to recognition orders for customary marine title.
- C. This application is made in reliance on sections 58 and 59 of the Act and *Re Tipene* [2016] NZHC 3199.

**DATED** at Gisborne this 3<sup>rd</sup> April 2017



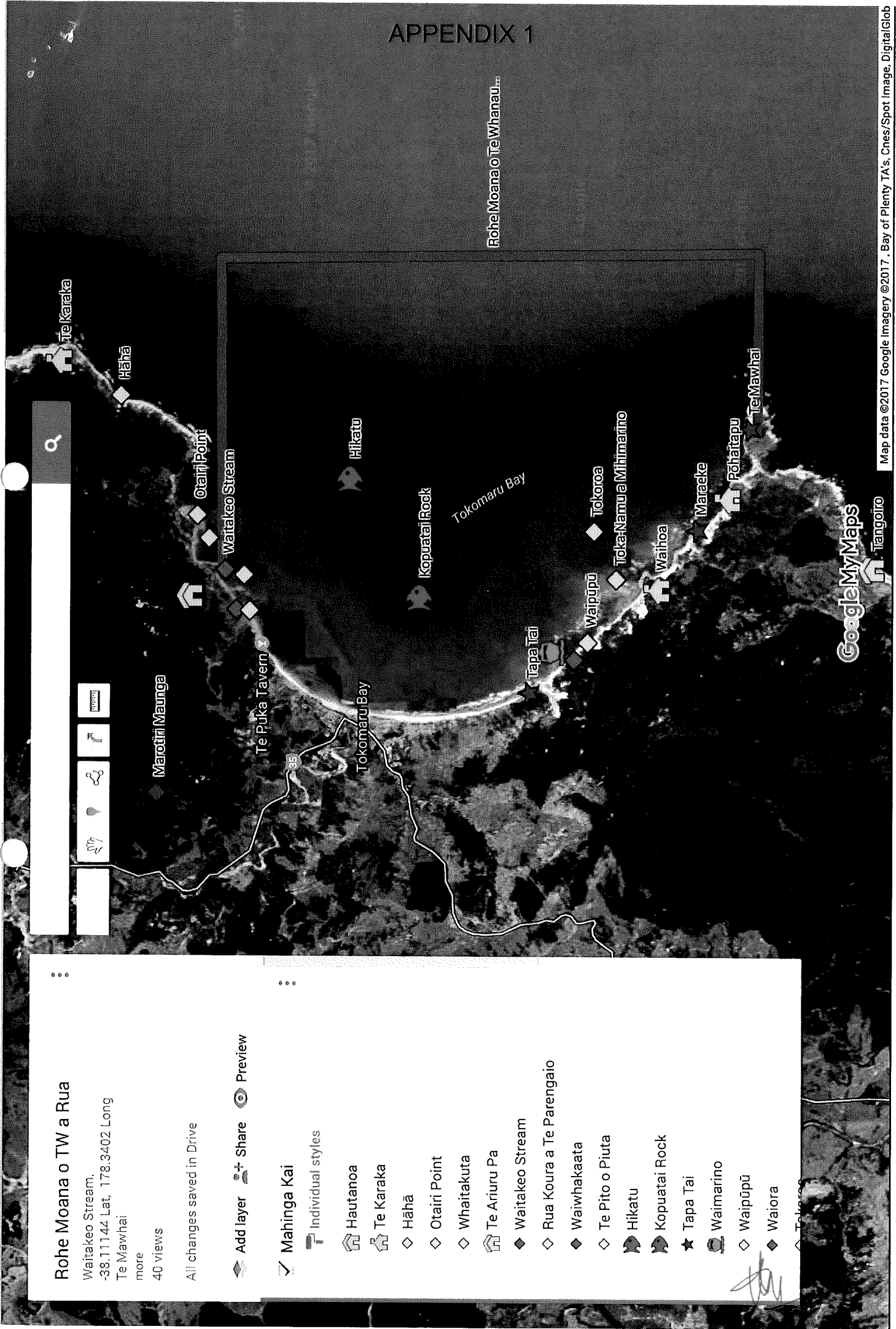
**M K Mahuika / N R Milner**  
Counsel for the Applicant

**THIS** application is filed by **Matanuku Kihirini Mahuika**, barrister and solicitor. The address for service of the applicant is Kahui Legal, Level 11, Intilecta Centre, 15 Murphy Street, Wellington 6011, attention: M K Mahuika/N R Milner. Documents for service on the applicant may be left at that address for service or may be:

- (a) posted to the solicitor at Kahui Legal, PO Box 1654, Wellington 6140, attention: M K Mahuika/N R Milner;
- (b) transmitted to the solicitor by facsimile 04 495 9990, attention: M K Mahuika/N R Milner; or
- (c) emailed to the solicitor at [matanuku@kahuilegal.co.nz](mailto:matanuku@kahuilegal.co.nz) and [nathan@kahuilegal.co.nz](mailto:nathan@kahuilegal.co.nz).



# APPENDIX 1



## Rohe Moana o TW a Rua

Waitakeo Stream,  
 -38.11144 Lat, 178.3402 Long  
 Te Mawhai  
 more  
 40 views

All changes saved in Drive

Add layer Share Preview

### Mahinga Kai

Individual styles

Hautanoo

Te Karaka

Haha

Otairi Point

Whaitakuta

Te Ariuru Pa

Waitakeo Stream

Rua Koura a Te Parengiao

Waiwhakaata

Te Pito o Piuta

Hikatu

Kopuatai Rock

Tapa Tai

Waimarino

Waipupu

Waiora

Te Mawhai

Tokoroa