

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

CIV-2017-485-308

**IN THE MATTER OF**

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

**AND**

**IN THE MATTER OF**

an application by the Matihetihe Marae Trust on  
behalf of Te Tao Maui and Hoko Keha for an  
order recognising Customary Marine Title and  
Protected Customary Rights.

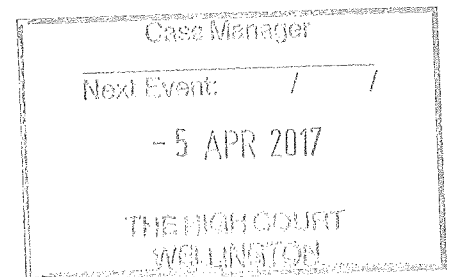
**Applicant**

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**AN ORIGINATING APPLICATION FOR RECOGNITION ORDERS PURSUANT TO  
THE MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

**31 March 2017**

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**KAHUI**  
LEGAL

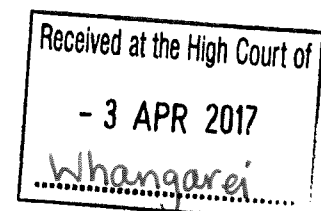
PO Box 1654

Telephone: 04 495 9999

Facsimile: 04 495 9990

Counsel: K Tahana

**WELLINGTON**



## MAY IT PLEASE THE COURT

- To:** The Registrar of the High Court at Whangarei
- and to:** Far North District Council  
Northland Regional Council
- and to:** The Solicitor General on behalf of the Attorney-General.

## THIS DOCUMENT NOTIFIES YOU THAT:

1. The applicant, the trustees of Matihetihe Marae Trust (**the Trustees**) will apply to the High Court for an order pursuant to section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**the Act**) to recognise the customary marine title and protected customary rights of the hapu of Te Tao Maui and Te Hoko Keha (**the Applicant Group**).
2. The grounds on which the orders are sought are as follows:

### Introduction

3. The Applicant Group whakapapa to Te Tao Maui and Te Hoko Keha and link to the coastal area from the northern side of Hokianga Harbour to the southern side of the Whangape Harour (**Coastal Marine Area**).
4. Pursuant to section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**the Act**), the Applicant Group applies to the High Court for recognition orders for customary marine title and protected customary rights.
5. The Applicant Group comprise two coastal hapu that have continued to exercise mana whenua, mana moana and kaitiakitanga over the Coastal Marine Area.
6. 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.

### **Order Sought**

7. The Trustees seek recognition orders from the High Court under section 98 of the Act for:
  - (a) customary marine title over the Coastal Marine Area (the Trust considers it meets the tests for customary marine title set out under section 58 of the Act); and
  - (b) protected customary rights within the Coastal Marine Area (the Trust considers it meets the tests for protected customary rights set out under section 51 of the Act).

### **The Applicant Group – section 101(c)**

#### *Hapu*

8. The Applicant Group are the hapu known as Te Tao Maui and Te Hoko Keha.

#### *Trust*

9. The Trust is the Matihetihe Marae Trust.
10. The Trust has been appointed by the Applicant Group to be the representative of the Applicant Group and to apply for, and hold, a recognition order on behalf of the Applicant Group.

### **The Specified Area – section 101(d)**

#### *Coastal Marine Area*

11. The specified area to which this application relates is Te Tao Maui and Te Hoko Keha Coastal Marine Area (the **Specified Area**), which is identified on the map which is annexed and marked “**A**”.
12. The Specified Area is located on the west coast of the upper North Island in the Northland District. The coastal boundaries begin generally from Hokianga Harbour, in the south, then north to Whangape Harbour.
13. There is an area of shared interest in the outer northern and outer southern boundaries of the Specified Area between the Applicant Group and:
  - (a) Te Uri o Tai at the Whangape Heads; and
  - (b) Patutoka at Hokianga Harbour.

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

14. The Applicant Group satisfies the following requirements for customary marine title:
- (a) the Applicant Group holds the Specified Area in accordance with tikanga;
  - (b) the Applicant Group has, in relation to the Specified Area:
    - (i) exclusively used and occupied the Specified Area from 1840 to the present day without substantial interruption;
  - (c) the Applicant Group owns land abutting the Specified Area pursuant to section 59 of the Act;
  - (d) the Applicant Group exercises non-commercial customary fishing rights in the Specified Area pursuant to section 59 of the Act; and
  - (e) the grounds set out in the affidavit in support of this application.

**The Holder of the Order – section 101(f)-(g)**

15. The Trust has been appointed by the Applicant Group to be the holder of the order as the representative of the Applicant Group.
16. The contact details of the Trust are:

Matihetihe Marae Trust  
West Coast Rd  
Mitimiti  
RD2 Kohukohu  
Hokianga 0492  
Attention: Ana Bercich (Treasurer)

**Affidavit in Support – section 101(h)**

17. This application is supported by the affidavit of Noel (Nore) John Martin. The affidavit in support of this application sets out in full the basis on which the Applicant Group claims to be entitled to the recognition order for customary marine title over the Specified Area.

**DATED** at Wellington this 31st day of March 2017.

A handwritten signature in cursive script, appearing to read 'K. Adams', is written over a horizontal line.

Counsel for the Applicant

**TO:** The Registrar, High Court, Whangarei  
**AND TO:** Far North District Council  
**AND TO:** Northland Regional Council  
**AND TO:** The Solicitor-General on behalf of the Attorney-General

**THIS** application is filed by **KIRI TAHANA**, of the firm Kahui Legal. The address for service of the Applicant is at the office of Kahui Legal, Solicitors, Level 11, Intilecta Centre, 15 Murphy Street, Wellington.

Documents for service on the Applicant may be left at that address for service or may be:

- (a) posted to the solicitor at PO Box 1654, Wellington;
- (b) transmitted to the solicitor by facsimile on 04 495 9990; or
- (c) emailed to the solicitor at [kiri@kahuilegal.co.nz](mailto:kiri@kahuilegal.co.nz).

Documents served on the Applicant should be marked for the attention of Kiri Tahana.

