

IN THE HIGH COURT OF NEW ZEALAND
WHANGAREI REGISTRY

CIV-2017- 485 -208

IN THE MATTER of an Originating Application for Customary Marine Title and Protected Customary Rights under the Marine & Coastal Area (Takutai Moana) Act 2011

BETWEEN SHERIDAN WAITAI, DONNA SMITH, LILLIAN KARAKA, HARRY BURKHARDT, JAMES TATTERSALL, ABBEY BROWN, GRAEME NEHO, PANI PETERA, LANCE NORMAN, CHARLIE SUCICH and WALTER WELLS, as Trustees of the Ngati Kuri Trust Board Incorporated being the representative body for Ngā Ūri o Ngāti Kuri

Applicants

AND THE ATTORNEY GENERAL

Respondent

ORIGINATING APPLICATION FOR CUSTOMARY MARINE TITLE
AND PROTECTED CUSTOMARY RIGHTS UNDER SECTIONS 98 AND
100 OF THE MARINE & COASTAL AREA (TAKUTAI MOANA) ACT 2011

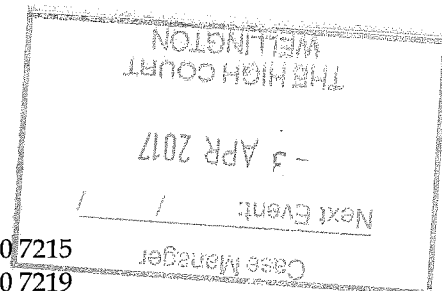
Dated 29 March 2017

Solicitor:
Heugh M Kelly
PO Box 207
Wellsford 0940

Phone: (09) 423 7373
Facsimile: (09) 423 7997
Email:

Counsel Acting:
P J Andrew
Barrister
PO Box 31
Shortland Street
Auckland 1140

Phone: (09) 300 7215
Facsimile: (09) 300 7219
Email: peter.andrew@eldonchambers.net



MINISTRY OF JUSTICE
31 MAR 2017
WHANGAREI

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

This document notifies you that:

1. The applicants, the Trustees of the Ngāti Kuri Trust Board Incorporated and an “applicant group” for the purposes of s 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 (the 2011 Act) make application pursuant to ss 98 and 100 of the 2011 Act for the following recognition orders:
 - (a) A recognition order that the trustees of Ngāti Kuri Trust Board Incorporated have, on behalf of the iwi, hapu and Ūri of Ngāti Kuri, customary marine title to the area marked “A” in the attached map (the specified area) being foreshore and seabed of Te Hiku o Te Ika, including the harbours of Parengarenga and Houhora; and
 - (b) A recognition order that the trustees of the Ngāti Kuri Trust Board Incorporated, on behalf of the iwi, hapu and Ūri o Ngāti Kuri, have protected customary rights in the specified area:-

Protected Customary Rights

2. The ancestors of the applicants and the iwi, hapu and Ūri o Ngāti Kuri utilised the common marine and coastal area of the specified area for:
 - Non-commercial fishing (utilising nets, hinaki and hand-lines to catch multiple species of fish);
 - Non-commercial seeding and harvesting of shellfish (including pipis, cockles, oysters, mussels, scallops, karahu, toheroa, tuatua, tuangi, pupu, and paapaka);

- Activities relating to spiritual practices including rahui;
- Planting and cultivating plant species in the CMCA wet margins (including flax, tī kouka and pingao);
- Gathering edible and aquatic plants;
- Extracting non-nationalised minerals, including sand;
- Collecting hāngi stones;
- Selecting driftwood and other natural resources;
- Temporary camp-sites with ceremonial activities in the CMCA;
- Tauranga waka;
- Storing, loading and transport of produce.

The Applicant Group

3. The applicants, the trustees of the Ngāti Kuri Trust Board are the legitimate representatives of the iwi, hapu and Ūri o Ngāti Kuri.

Area to which the Application relates

4. The area to which this application relates is the common marine and coastal area (as defined in s 9 of the 2011 Act) of the specified area that is founded:
 - (a) on the landward side of the line of mean high-water springs;
 - (b) on the seaward side by the outer limits of the territorial sea;
5. The area includes the common marine and coastal area surrounding the islands of Te Hiku o te Ika and the Ngāti Kuri rohe including Rangitahua (the Kermadecs), Manawatāwhi (the Three Kings Islands), Murimotu and Motu o Pao.

Grounds on which the Customary Marine Title and Protected Customary Rights Orders are sought

6. The Ngāti Kuri Trust Board Incorporated, as the applicant group, and representative of the iwi and hapu of Ngāti Kuri, holds the specified area in accordance with Tikanga and has, exclusively used and occupied it from 1840 to the present day without substantial interruption.
7. The iwi and hapu of Ngāti Kuri and the Ngāti Kuri Trust Board, as the representative of the iwi hapu and Ūri o Ngāti Kuri, own land abutting part of the specified area and has done so, without substantial interruption, from 1840 to the present day.
8. The Ngāti Kuri Trust Board Incorporated and members of the iwi have exercised non-commercial fishing rights in the specified area, and have done so from 1840 to the present day.
9. The protected customary rights sought in paragraph 1(b) above have been exercised by the iwi Ngāti Kuri since 1840 and continue to be exercised in the specified area in accordance with Tikanga and its evolution over time.
10. The protected customary rights sought at paragraph 1(b) above have not been extinguished as a matter of law.
11. This application is based on ss 9, 51, 58, 98 and 100 of the Marine & Coastal Area Takutai (Moana) Act 2011, Rule 19.2 of the High Court Rules 2016 and the affidavit of Harry Burkhardt filed with this application.

Contact Details

12. The appointed representative for the applicant group, is as follows:

Mr Harry Burkhardt, Ngāti Kuri Trust Board, care of
olivia@ngatikuri.iwi.nz
5399 Main Road North
Ngātaki
RD4
Kaitaia
Northland

Dated at Auckland this 29th day of March 2017



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P J Andrew
Counsel for the Applicants

This Originating Application is filed by Heugh Kelly, solicitor for the applicant, whose address for service is at 221 Rodney Street, Wellsford 0900.

Documents for service on the applicant may be left at this address or may be emailed to counsel, Peter Andrew at peter@peterandrew.kiwi.

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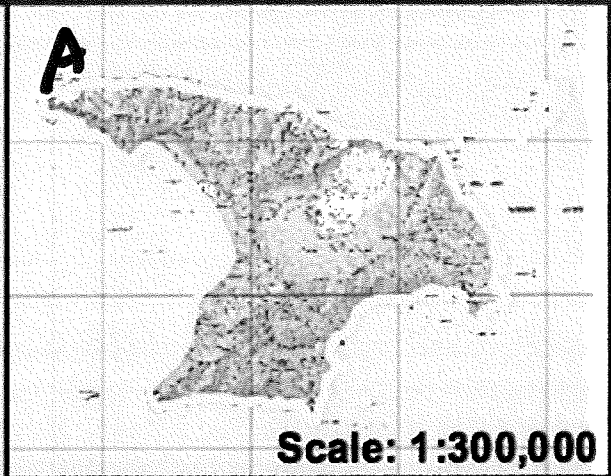
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Kilometers

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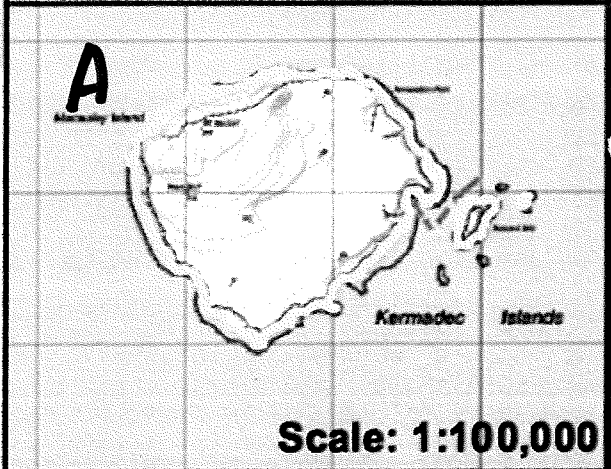


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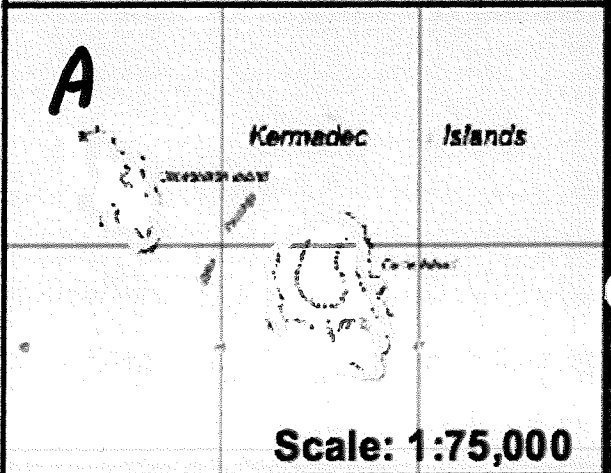
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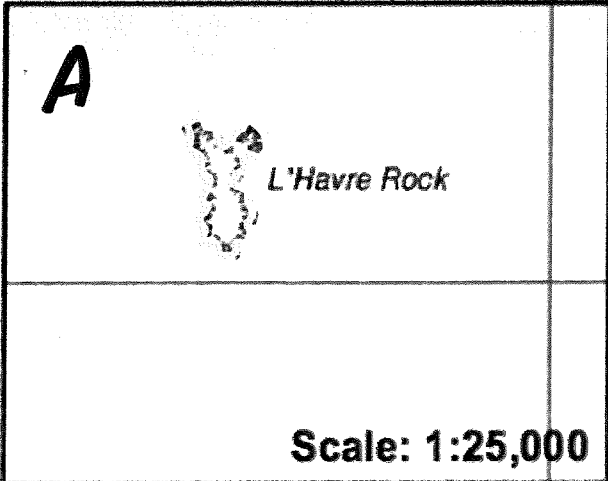
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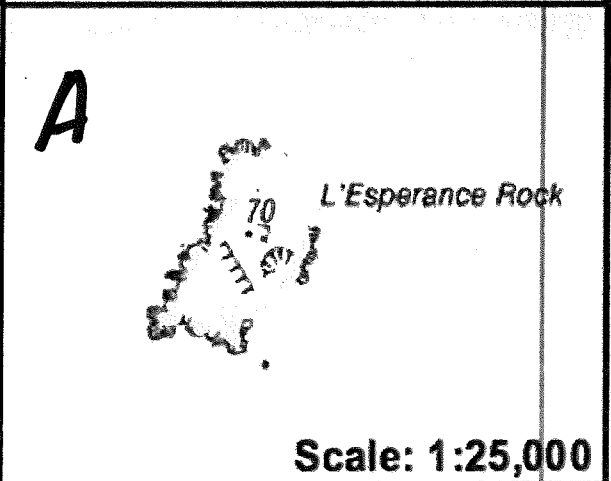
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