

IN THE HIGH COURT OF NEW ZEALAND
WHANGAREI REGISTRY

CIV 2017-485-240

IN THE MATTER OF The Marine and Coastal Area (Takutai
Moana) Act 2011

AND

IN THE MATTER OF an application by the Trustees of the Te
Rūnanga Nui o Te Aupōuri Trust, on
behalf of the applicant group Te
Aupōuri for Recognition Orders for
Customary Marine Title, Wāhi Tapu
Protection and Protected Customary
Rights

APPLICATION FOR RECOGNITION ORDERS UNDER THE MARINE
AND COASTAL AREA (TAKUTAI MOANA) ACT 2011

29 MARCH 2017

Case Manager
Next Event: / /
31 MAR 2017
THE HIGH COURT WELLINGTON

BRAITHWAITE & SMAIL LIMITED
PO Box 13 243
Onehunga
AUCKLAND 1643
Telephone: 021 802 636
Solicitor: JM Braithwaite

BRAITHWAITE & SMAIL LIMITED

Lawyers & Mediators



TO the Registrar of the High Court at Whangarei

AND TO the Solicitor General on behalf of the Attorney General

AND TO Northland Regional Council and the Far North District Council

This document notifies you that—

1. The applicants, the Trustees of the Te Rūnanga Nui o Te Aupōuri Trust, will, on behalf of the applicant group Te Aupōuri, apply to the court for recognition orders for:
 - 1.1. Customary Marine Title in the application area;
 - 1.2. Wāhi Tapu Protection in the application area; and
 - 1.3. Protected Customary Rights in the application area.
2. The applicant group Te Aupōuri are one of the five iwi of Muriwhenua, also known as Te Hiku o te Ika a Māui, the Far North of Aotearoa / New Zealand. The applicant group is represented by the Trustees of the Te Rūnanga Nui o Te Aupōuri Trust, the applicants in this application.
3. The application area means the common marine and coastal area that is bounded on the landward side, by the line of mean high-water springs and on the seaward side, by the outer limits of the territorial sea—
 - 3.1. from Waimimiha in the south-west, north to the mouth of the Rangaunu Harbour, and north to Muri-motu (North Cape), west to Te Rerenga Wairua (Cape Rēinga), south to Motu-o-Pao (Cape Maria van Diemen), to Kahokawa (Scotts Point), Matapia, Waka-te-hāua (The Bluff), Hukatere and back to Waimimiha including:
 - 3.1.1. surrounding Motu-puruhi and Te Rākau-tū-hakahaka (Simmonds Islands); and
 - 3.1.2. surrounding Motuopao Island; and

- 3.1.3. surrounding Matapia Island; and
 - 3.1.4. surrounding Murimotu Island; and
 - 3.2. surrounding Oromaki, Manawa-tāwhi, Moe-kawa and Ohau (Three Kings Islands); and
 - 3.3. surrounding Rangitāhua (Raoul Island) and the other Kermadec Islands; and
 - 3.4. as delineated on the map annexed to the Affidavit of Waitai Ratima Petera as exhibit F.
4. The grounds on which each order is sought are as follows:
- 4.1. Te Aupōuri holds the application area in accordance with tikanga, has exclusively used and occupied it from 1840 to the present day without substantial interruption and customary marine title has not been extinguished as a matter of law; and
 - 4.2. The CMT application area is a wāhi tapu or wāhi tapu area with which Te Aupōuri has a connection in accordance with tikanga, and Te Aupōuri requires the following prohibitions or restrictions on access to protect it:
 - 4.2.1. Pollution, littering, urinating and defecating are prohibited; and
 - 4.2.2. Access is restricted to only those parts of the application area where there has not been a drowning, death or a body or kōiwi found, or where Te Aupōuri have taken the necessary steps to deal with the drowning or death and the place where the kōiwi or body was found in accordance with tikanga, for example by performing karakia or completing a period of rāhui, in order to protect the wāhi tapu by restoring the tapu to the correct level; but

4.2.3. The appropriate members of Te Aupōuri may take the necessary steps to deal with the drowning or death and the place where the kōiwi or body was found in accordance with tikanga, for example by performing karakia or completing a period of rāhui; and

4.3. In the application area Te Aupōuri have customary rights to:

4.3.1. take, utilise, gather, manage and/or preserve all natural and physical resources including sand, shells, stones, gravel, pumice, driftwood, kōkōwai, wai tapu, inanga and kōkopu, as and when required, for purposes and to the extent determined by Te Aupōuri subject to tikanga;

4.3.2. seed and harvest shellfish (including pipi, cockles, mussels, scallops, karahu, toheroa, tuatua, tuangi, pupu, paapaka) for non-commercial purposes;

4.3.3. utilise, manage, preserve and develop tauranga waka for the purposes and to the extent determined by Te Aupōuri subject to tikanga;

4.3.4. utilise, manage, preserve and develop traditional routes of travel for the purposes and to the extent determined by Te Aupōuri subject to tikanga;

4.3.1. utilise, manage, preserve and develop the application area as a place to demonstrate manaakitanga to visitors for the purposes and to the extent determined by Te Aupōuri subject to tikanga;

4.3.2. hold wananga in the application area to share knowledge and teach younger generations about Te Aupōuri tikanga relating to the coastal marine area; and

4.3.3. undertake and implement spiritual practices such as rahui and blessings in the application area in accordance with Te Aupōuri tikanga.

Te Aupōuri have exercised these rights since 1840, continue to exercise them in the PCR application area and they have not been extinguished as a matter of law; and

4.4. The further grounds as set out in the affidavit of Waitai Ratima Petera dated 29 March 2017.

5. The application is made in reliance on Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.

6. The applicants name the Trustees of Te Rūnanga Nui o Te Aupōuri Trust as the persons to be the holder of the order as the representatives of Te Aupōuri.

7. The contact details for Te Aupōuri are:

The Trustees of the Te Rūnanga Nui o Te Aupōuri Trust

Physical Address: Far North Road, Te Kao

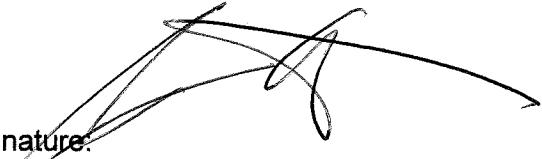
Postal Address: PDC Te Kao, RD 4, Kaitaia, 0484

Phone: +64 (9) 409 8006

Email: ceo@teaupouri.iwi.nz

8. The contact details for the persons named to hold the order are as set out at 7 above.

Date: 29 March 2017

Signature: 
(solicitor for applicants)

This document is filed by Jennifer Michelle Braithwaite, solicitor for the applicants, of the firm Braithwaite & Smail Limited. The address for service of the applicants is Te Rūnanga Nui o Te Aupōuri Trust, Far North Road, Te Kao.

Documents for service on the filing party may be left at that address for service or may be—

- (a) posted to the solicitor at PO Box 13 243, Onehunga 1643; or
- (b) emailed to the solicitor at jennifer@braithwaitesmail.co.nz.