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IN THE HIGH COURTS OF NEW ZEALAND
WELLINGTON REGISTRY

CIV-2017- 485-298.

IN THE MATTER OF

the Marine and Coastal Area
(Takutai Moana) Act 2011

AND

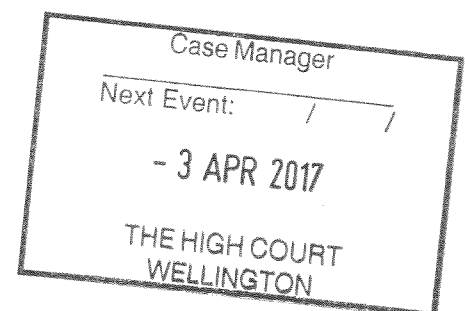
IN THE MATTER OF

an application by the Trustees of
the Te Āti Awa ki Whakarongotai
Charitable Trust on behalf of **TE
ĀTI AWA KI WHAKARONGOTAI**
for an order recognising Customary
Marine Title and Protected
Customary Rights.

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

3 April 2016

Te Āti Awa ki Whakarongotai Charitable Trust
PO Box 509
04 293 1538
WAIKANAE



To: The Registrar of the High Court at Wellington

and to: Kāpiti Coast District Council

Greater Wellington Regional Council

and to: Department of Conservation, Department of Internal Affairs, Environmental Protection Agency

and to: The Solicitor General on behalf of the Attorney-General.

THIS DOCUMENT NOTIFIES YOU THAT:

1. The Trustees of the Te Ātiawa ki Whakarongotai Charitable Trust (the **Trust**) will apply to the High Court for an order pursuant to sections 98 and 100 of the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) to recognise the customary marine title and protected customary rights of Te Ātiawa ki Whakarongotai.
2. The grounds on which the orders are sought are as follows:

Orders Sought – section 101(a)

3. 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 within the rohe of Te Āti Awa ki Whakarongotai (the Trustees consider that the Applicant Group 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 within the rohe of Te Āti Awa ki Whakarongotai (the Trustees consider that the Applicant Group meets the tests for customary marine title set out under section 51 of the Act).

Protected Customary Rights – Section 101(b)



4. Te Ātiawa ki Whakarongotai ancestors utilised the common marine and coastal area for a variety of activities and seeks recognition orders for these activities as a protected customary right. Those activities include, but are not limited to:
 - a. non-commercial fishing (utilizing nets and lines to catch pelagic fish in the rohe including kahawai, herring, flounder, sole, mullet, red cod, hoki, frostfish and snapper;
 - b. the implementation and maintenance of rāhui;
 - c. planting and cultivating plant species in CMCA wet margins;
 - d. gathering edible and aquatic plants including seaweeds and kelp;
 - e. extracting non-nationalised minerals for non-commercial purposes, in particular, kohatu that are used for mauri stones and for commemorative purposes;
 - f. collecting driftwood for non-commercial purposes.

The Applicant Group – Section 101(c)

5. Te Ātiawa ki Whakarongotai is the iwi comprising every person who is descended from a primary ancestor of Te Ātiawa, Ngāti Tama, Ngāti Mutunga and Ngāti Maru Wharanui.

Te Āti Awa ki Whakarongotai Charitable Trust

6. The Trust was established in 2005 pursuant to the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Claims Settlement Act 2004.
7. The Trustees have the authority to make this application for and on behalf of the Te Āti Awa ki Whakarongotai under the following sections of the Trust Deed which states Trustees shall;

- a. Section 3.2(k)(vi) exercise and assist with kaitiakitanga over the environment and to protect and preserve all wāhi tapu, urupā and ngā taonga tuku iho; and
- b. Section 3.2(k)(vii) represent and promote in the widest possible sense the spiritual, cultural and social aspirations of Māori

Area to which the application relates – Section 101(d)

8. The particular area of the common coastal marine area to which this application relates is the coastal marine area within the rohe of Te Ātiawa ki Whakarongotai (the **Application Area**).
9. For the purposes of this application, the Application Area means:
 - a. the common marine and coastal area within the Te Āti Awa ki Whakarongotai rohe which extends from the landward boundary to the seaward boundary being the outer limits of the territorial sea (12 nautical miles from shore) of: Kūkūtauaki to Whareroa to Pukemore and to Maunganui northward to Kapakapanui and Pukeatua to Ngāwhakangutu then westward to Kūkūtauaki;
10. The Application Area is located on the west coast of the lower North Island in the Kāpiti District.

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

11. The grounds on which the Application is made in relation to customary marine title are that:
 - a. the Applicant Group holds the Application Area in accordance with tikanga (section 58(1)(a));
 - b. the Applicant Group has, in relation to the Application Area, exclusively used and occupied the Application Area from 1840 to the present day without substantial interruption (section 58(1)(b));



- c. the Applicant Group exercises non-commercial customary fishing rights in the Application Area and have done so from 1840 to the present day (section 59(1)(a)(ii)); and
 - d. as set out in the affidavit in support of this application.
12. The grounds on which the Application is made in relation to protected customary rights are that:
- a. the protected customary right has been exercised since 1840 (section 51(1)(a));
 - b. the protected customary right continues to be exercised in the Application Area in accordance with tikanga by the Applicant Group, whether it continues to be exercised in exactly the same or a similar way, or evolves over time (section 51(1)(b)); and
 - c. the protected customary right is not extinguished as a matter of law (section 51(1)(c)); and
 - d. as set out in the affidavit in support of this application.
13. Te Āti Awa ki Whakarongotai will provide more information once funding for research and legal representation is secured.

The Holder of the Recognition Orders – section 101(f) – (g)

14. For the purposes of this application, the holder of the recognition orders will be the Te Āti Awa ki Whakarongotai Charitable Trust (or, in the event that the holders must be a natural person, the Trustees of the Te Āti Awa ki Whakarongotai Charitable Trust in their capacity as Trustees).
15. The Trustees, on behalf of Te Āti Awa ki Whakarongotai, seeks leave to amend this aspect of the application at a later date.
16. The contact details for the Te Āti Awa ki Whakarongotai Charitable Trust are:



Te Āti Awa ki Whakarongotai Charitable Trust

PO Box 509

Waikanae

17. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of Tutere Paraone Parata and John Webber Barrett

Dated at WAIKANAĒ on the 3rd day of April 2017



André Peter Baker
Chairman
Te Āti Awa ki Whakarongotai Charitable Trust