

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CIV-2017-404-558

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE

UNDER THE

Marine and Coastal Area (Takutai
Moana) Act 2011

AND

IN THE MATTER OF

an application by **Rihari
Dargaville** on behalf of
Ngāitawake orders recognising
Customary Marine Title and
Protected Customary Rights

Second Amended Originating Application on Notice for Recognition Orders

Pursuant to the Marine and Coastal Area (Takutai Moana) Act 2011

Dated: 24 November 2023

TamakiLegal
Barristers & Solicitors

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Counsel Acting: D C F Naden

To the Registrar of the High Court at Auckland

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. On 30 March 2017, Rihari Dargaville (**“Applicant”**) applied to the High Court in Auckland pursuant to s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**“MACA Act”**) for the following:
 - a. a recognition order for Customary Marine Title (**“CMT”**) pursuant to s 58 of the MACA Act;
 - b. the recognition of wāhi tapu and/or the recognition of a wāhi tapu area or areas pursuant to s 78 of the MACA Act; and
 - c. a recognition order for Protected Customary Rights (**“PCR”**) pursuant to s 51(1) of the MACA Act.

“Application”

The Applicant Group

2. The Applicant Group is the hapū of Ngāi Tawake (**“Applicant Group”**).
3. Ngāi Tawake is a hapū of Ngā Puhī Nui Tonu.

Representative of Applicant Group

4. On 27 March 2017, a hui was held by Ngāitawake kaumatua and kuia at

which Rihari Dargaville was authorised to represent Ngāitawake for the purposes of the Application.

5. As the Applicant Group's representative, Rihari Dargaville will be the holder of any recognition orders that are granted.

Contact details

6. The contact details for the Applicant, Rihari Dargaville, are:
 - a. Telephone number: 021 081 09464.
 - b. Mailing address: 231 State Highway 1, Moerewa, Northland.
 - c. Email: rihari.takuir@gmail.com

Specified Areas

7. The Application concerns distinct specified areas located in the Hokianga Harbour, on the west coast of Te Taitokerau, and in and around the Bay of Islands. The specified areas are described below.

Hokianga Harbour

8. The common marine and coastal area in the Hokianga Harbour to which the Application relates:
 - a. is bounded on the landward side by the line of mean high-water springs; and
 - b. includes the following areas of the Hokianga Harbour:
 - i. **Area 1** – From Mangungu [-35.353, 173.568] in an anti-clockwise direction around the harbour shoreline to the eastern bank of the Mangamuka [-35.336, 173.548];
 - ii. **Area 2** – From the eastern bank of the Whirinaki River [-35.413, 173.438] west along the harbour shoreline to Aitu-te-uru at the southern entrance to the Hokianga

Harbour [-35.534, 173.367], and out into the harbour's mid-point from all points along the stated shoreline; and

(“**Hokianga specified area**”)

- c. Includes those sections of the Hokianga Harbour and the islands that are located within the Hokianga specified area; and
- d. is depicted in the map **attached** to the second affidavit of Rihari Dargaville and marked **Appendix ‘A’**.

West Coast

- 9. The common marine and coastal area along the west coast of Te Taitokerau to which this application relates:
 - a. is bounded on the landward side by the line of mean high-water springs; and
 - b. is bounded on the seaward side by the outer limits of the territorial sea; and
 - c. is bounded by a line that runs from Te Kauri Point [-36.264, 174.227] in a clockwise direction around the Kaipara Harbour to the harbour's southern entrance and then along the coastline south to Pararaha Stream near the Manukau Heads [-37.014, 174.474];
 - d. is bounded by a line that runs from Te Kauri Point in a south-westerly direction through the harbour towards the harbour's entrance to co-ordinates [-36.389, 174.207];
 - e. is bounded on the seaward side by a line that runs west through the harbour towards its entrance from co-ordinates [-36.389, 174.207] to co-ordinates [-36.419, 174.101]; and
 - f. is bounded on the seaward side by a line from the harbour's entrance that runs west from co-ordinates [-36.419, 174.101] to co-ordinates [-36.425, 173.789]; and

(“West Coast specified area”)

- g. includes the islands located in the West Coast specified area; and
- h. is depicted in the map **attached** to the second affidavit of Rihari Dargaville and marked **Appendix ‘B’**.

Bay of Islands

- 10. The common marine and coastal area in the Bay of Islands to which this application relates:
 - a. is bounded on the landward side by the line of mean high-water springs; and
 - b. is bounded on the seaward side by the outer limits of the territorial sea; and
 - c. runs along the coastline from the southern bank of the Tākou River at Tākou Bay [-35.103, 173.943] south to Cape Brett [-35.172, 174.335]; and

(“Bay of Islands specified area”)

- d. includes the Bay of Islands and the islands located within the Bay of Islands specified area; and
- e. is depicted in the map **attached** to the second affidavit of Rihari Dargaville and marked **Appendix ‘C’**.

Overview map

- 11. **Attached as Document “A”** to this application is an updated map of the Northland region depicting the aforementioned specified areas in a single map.

Grounds for CMT Application

- 12. In accordance with s 58(1) of the Marine and Coastal (Takutai Moana) Act 2011, the Applicant Group:

- a. holds the Hokianga specified area, the West Coast specified area and the Bay of Islands specified area (“**Specified Areas**”) in accordance with tikanga; and
 - b. has exclusively used and occupied the Specified Areas from 1840 until the present day.
13. Legal title to the Specified Areas have not been extinguished as a matter of law.
14. The Applicant Group has exercised kaitiakitanga and their non-commercial customary fishing rights in the Specified Areas from 1840 to the present day.

Wāhi Tapu

15. Wāhi tapu that are of vital importance to the Applicant Group’s relationship with Tangaroa and his children are located within the Specified Areas.
16. The wāhi tapu are in need of being protected.
17. Those who use and access the takutai are in need of being protected from the wāhi tapu.
18. If a CMT order is granted, recognition of the Applicant Group’s wāhi tapu will be sought pursuant to s 78 of the Act.

Protected Customary Rights

19. Orders are sought for the protection of the customary right to:
- a. Exercise kaitiakitanga over the takutai moana;
 - b. Exercise kaitiakitanga over the customary (non-commercial) fisheries set out below;
 - i. Karati (Baby Snapper);

- ii. Kahawai;
- iii. Parore (Black Snapper);
- iv. Araara (Trevally);
- v. Kuparu (John Dory);
- vi. Tarakihi;
- vii. Maroro (Flying Fish);
- viii. Tuere (Blind Eel);
- ix. Pakirikiri (Butterfish);
- x. Pia (Lamprey);
- xi. Kokopu (Cockabully);
- xii. Paea (Swordfish);
- xiii. Kehe (Marblefish);
- xiv. Tuna (Blue Nose);
- xv. Kotare (Kingfish);
- xvi. Kohikohi (Trumpeter);
- xvii. Tohora (Whale);
- xviii. Tohora (Whale);
- xix. Hapuka (Groper);
- xx. Tamure (Snapper)

- xxi. Takeketonga (Marlin);
- xxii. Mango (Dogfish/shark);
- xxiii. Mango ururoa (White shark)
- xxiv. Mango taniwha (White pointer shark)
- xxv. Patiki (Flounder);
- xxvi. Tarore (Sole);
- xxvii. Kanae (Mullet);
- xxviii. Warahenga (Stingray)
- xxix. Poraē;
- xxx. Kumukumu (Gurnard);
- xxxi. Tikati (Gemfish);
- xxxii. Ngu (Squid);
- xxxiii. Wheke (Octopus);
- xxxiv. Inanga (Esturine whitebait);
- xxxv. Kawakawa wai tote (Esturine crayfish);
- xxxvi. Aua (Herring/Sprat);
- xxxvii. Toheroa;
- xxxviii. Tuatua;
- xxxix. Tipatipa; Kutai;

- xl. Puruwaha;
 - xli. Tio;
 - xlii. Pipi;
 - xliii. Kokata;
 - xliv. Oi;
 - xlv. Titij;
 - xlvi. Koura;
 - xlvii. Papaka;
 - xlviii. Tuatua;
 - xlix. Tuangi (claim);
 - I. Kina;
 - li. Pupu;
 - lii. Karahu;
 - liii. Rimurimu; and
 - liv. Wetland food stocks foraged by whanau in the estuaries and coastal margins.
- c. Implement the maramataka; and
- d. To take, use, gather, manage and/or preserve:
- i. Driftwood;
 - ii. Shells;

- iii. Hangi stones and other rocks;
- iv. Karengo; and
- v. Kelp (in its various forms).

Grounds for Protected Customary Rights

20. The Protected Customary Rights described above have—
- a. Been exercised since 1840;
 - b. Continue to be exercised by Ngāitawake in the Specified Areas in accordance with tikanga; and
 - c. Are not extinguished as a matter of law.

Affidavit in Support of Application

21. The Third Affidavit of Rihari Dargaville accompanies the filing of the Amended Originating Application in support.

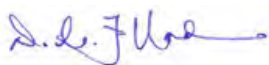
Memorandum

This document is filed by **Darrell Naden**, Solicitor for the Applicant Group, of the firm Tamaki Legal Limited. The address for service of the Applicant Group is at the offices of Tamaki Legal Limited, AMI Building, 15 Osterley Way, Auckland, 2104, New Zealand.

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

- posted to the Solicitors at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at darrell@tamakilegal.com

Date: 24 November 2023



Darrell Naden
Solicitor for Applicant



Locality Map

Kaitaia
 Kerikeri
 Whangarei
 Dargaville
 Auckland


Bay of Islands

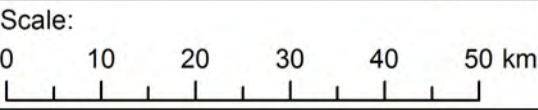
Hokianga Harbour - Area 1

Hokianga Harbour - Area 2

Kaipara Harbour to the Manukau Heads

Legend

 Application area boundary



Data shown on this map has been sourced from the following organisations: Basemap - ESRI World Street map. Locality - GeographX

Map 4 - CIV-2017-404-558 Overview of Specified Areas