

IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY

No: CIV: 2017-404-580

UNDER THE

Marine and Coastal Area  
(Takutai Moana) Act 2011,  
sections 98 and 100

AND

IN THE MATTER

of an application by **Freda  
Pene Reweti Whānau Trust**  
on behalf of Ngāti Rehua-Ngāti  
Wai ki Aotea for a Recognition  
Order recognising Customary  
Marine Title

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**Originating Application on Notice**  
for Orders Pursuant to the Marine and Coastal Area (Takutai Moana) Act  
2011  
Dated: 3 April 2017

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HIGH COURT
· 03 APR 2017 · 1448
AUCKLAND

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

**No: CIV:**

**To** the Registrar of the High Court at **Auckland**

and

**To** the **Far North District Council, Great Barrier Local Board**, c/o Auckland City Council, and the **Solicitor General** on behalf of the Attorney General.

**This document notifies you that —**

1. The **Freda Pene Reweti Whānau Trust** (“the Applicant”) will on 3 April 2017 apply to the Court for Recognition Orders under s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”).
2. The Applicant will seek a Recognition Order for Customary Marine Title (“CMT Order”) under the requirements of s 58 of the Act.
3. The Applicant will seek to include recognition of wāhi tapu and wāhi tapu areas in the CMT Order under s 78 of the Act.
4. The Applicant will seek a Recognition Order for a Protected Customary Right (“PCR Order”) under the requirements of s 51(1) of the Act.

**The Applicant Group**

5. Ngāti Rehua-Ngāti Wai ki Aotea is the Applicant Group (“the Applicant Group” or “Ngati Rehua-Ngati Wai ki Aotea”).
6. The Freda Pene Reweti Whānau Trust is made up of individuals who are Ngāti Rehua-Ngāti Wai ki Aotea.
7. Ngāti Rehua-Ngāti Wai ki Aotea hold mana whena over Aotea (Great Barrier Island), Hauturu (Little Barrier Island), and the Mokohinau Islands.

## **Representative of Applicant Group/Holder of the order**

8. The person who will be the representative of the Applicant Group and the holder of any Court Order is Valmaine Toki.

## **Contact Details**

9. The contact details for the named representative, Valmaine Toki, and for the Applicant Group are:
- a. Physical Address: 10 Taurarua Terrace, Parnell, Auckland;
  - b. Telephone: 021 357 860;
  - c. Email: valmaine@waikato.ac.nz

## **Affidavit in Support of Application**

10. An Affidavit by Valmaine Toki in support of this application is **attached** ("the Affidavit").

## **Specified Area**

11. The area of the takutai moana that this application relates to surrounds Aotea, the islands that are around Aotea, and the rocky outcrops that are near Aotea as well. The seaward extent of the relevant area is as follows:
- a. To a point in the north that includes the Mokohinau Islands;<sup>1</sup>
  - b. To the east, to the extent of the territorial sea;
  - c. To a point in the south that is approximately half way between Aotea and the Coromandel Peninsula;<sup>2</sup> and

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<sup>1</sup> Latitude -35.7643435, Longitude 175.1028442.

- d. To a point in the west that includes Hauturu<sup>3</sup> ("Little Barrier Island").

("the Specified Area")

12. A map of the Specified Area is **attached** to the affidavit of Valmaine Toki in support of this application.

#### **Grounds for CMT Application**

13. The Applicant Group holds the Specified Area in accordance with tikanga.
14. The Applicant Group has exclusively used and occupied the Specified Area from 1840 until the present day.
15. Title to the Specified Area has not been extinguished as a matter of law.
16. Further grounds for the CMT Order include the following:
  - a. Members of the Applicant Group own lands abutting the Specified Area; and
  - b. The Applicant Group exercise their non-commercial customary fishing rights within the Specified Area, and have done so from 1840 to the present day

#### **Wāhi Tapu**

17. Various wāhi tapu and wāhi tapu areas, of importance to the Trust are located within the Specified Area.

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<sup>2</sup> Latitude -36.3903349, Longitude 175.4530334.

<sup>3</sup> Latitude -36.1955252, Longitude 174.9366760.

18. If this application for a CMT Recognition Order is successful, the Trust will seek to include recognition of these wāhi tapu as part of the order under s 78 of the Act.
19. For the purposes of this application, the relevant wāhi tapu and wāhi tapu areas are explained in the **attached** affidavit of Valmaine Toki in support of this application.
20. For the purposes of this application, the Applicant Group reserves the right to apply for the inclusion of additional wāhi tapu with any CMT Order that may be granted where knowledge of the additional wāhi tapu is gained by the Applicant Group as a result of consultation with any Pūkenga appointed by the Court, or as a result of any historical research that is commissioned in relation to the making of the application for a CMT Order.

### **Description of Protected Customary Rights**

#### *Kaitiakitanga*

21. Kaitiakitanga refers to conservation, guardianship, protection, education and sustainability practices.
22. The Applicant Group practice kaitiakitanga over the Specified Area.
23. This practice requires the Applicant Group to have the ability to access, gather from, interact with, observe and protect the Specified Area using traditional and customary means.

### **Grounds for Protected Customary Rights Application**

24. The Protected Customary Rights described above have;
  - a. Been exercised since 1840;

- b. Continue to be exercised by the Trust in the Specified Area in accordance with tikanga; and
- c. Are not extinguished as a matter of law.

### **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 Group may be left at that address for service or may be –

- posted to the Solicitor at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at [darrell@tamakilegal.com](mailto:darrell@tamakilegal.com)

Date: 3/4/2017

  
**Darrell Naden**  
**Solicitor for Applicant**