

CIV-2017-485-243

**In the High Court of New Zealand
Wellington Registry**

CIV

In the matter of the Marine and Coastal Area (Takutai Moana) Act 2011

In the matter of An application by the trustees of the Te Korowai o
Ngāruahine Trust for and on behalf of collective of hapū
including Kānihi-Umutahi Hapū, Ōkahu-Inuawai Hapū, Ngāti
Manuhiakai Hapū, Ngāti Tū Hapū, Ngāti Hāua Hapū, and
Ngāti Tamaahuroa-Tītahi Hapū for orders recognising
protected customary rights and customary marine title under
Section 100(1) of the Marine and Coastal Area (Takutai
Moana) Act 2011 Act.

**Originating application for recognition orders under the Marine and
Coastal Area (Takutai Moana) Act 2011**

Dated 3 April 2017

Case Manager <i>Michaela</i>
Next Event: / /
- 3 APR 2017
THE HIGH COURT WELLINGTON

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Solicitor: Deborah Edmunds
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To: The Registrar of the High Court at Wellington

And to: The Solicitor-General on behalf of the Attorney-General

And to: The Taranaki Regional Council; the South Taranaki District Council.

THIS DOCUMENT NOTIFIES YOU THAT–

- 1 The applicants will at _____ am/pm apply to the Court under section 100(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 (**'the Act'**), for recognition orders made under section 98(1) for:
 - a Protected customary rights over the area covered by this application (the **'Application Area'**); and
 - b Customary marine title over the Application Area.

APPLICANTS

- 2 The applicant group is the hapū of Kānihi-Umutahi Hapū, Ōkahu-Inuawai Hapū, Ngāti Manuhiakai Hapū, Ngāti Tū Hapū, Ngāti Hāua Hapū, and Ngāti Tamaahuroa-Tītahi Hapū, and are more particularly described in the affidavit of Tihi-Anne Daisy Noble dated 30 March 2017.
- 3 The applicant group is represented by the trustees of Te Korowai o Ngāruahine Trust (**Trust**), who are the applicants in this application. The Trust is a trust settlement body established for the purpose of the Treaty Settlement entered into between the hapū represented by the Trust and the Crown by way of a Deed of Settlement dated 1 August 2014.
- 4 A copy of the Deed by which this trust was established is attached to and marked as Attachment **'D'** to the affidavit of Tihi-Anne Daisy Noble dated 30 March 2017.

THE APPLICATION AREA

- 5 The Application Area is that part of the Marine and Coastal Area (as defined by the Marine and Coastal Area (Takutai Moana) Act 2011), from the mouths of the Taungātara Stream in the north-west, the Waihi River in the south-east, from mean high water springs on the landward side, out to 12 nautical miles.

- 6 The Application Area is shown on a map attached to and marked as Attachment 'C' to that affidavit.

GROUND FOR APPLICATION

- 7 The grounds on which each recognition order is sought are as follows:
- a The applicant seeks an order recognising its protected customary rights as it satisfies the requirements for such an order, under section 51(1) of the Act. The applicant:
 - i Has exercised its customary rights since 1840;
 - ii Continues to exercise its rights in the Marine and Coastal Area in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time;
 - iii Is applying for rights that have not been extinguished as a matter of law; and
 - iv On the further grounds set out in the affidavit of Tihi-Anne Daisy Noble dated 30 March 2017.
 - b The applicant seeks an order recognising its customary marine title over the Marine and Coastal Area as it satisfies the requirements for such an order under section 58 of the Act. The applicant:
 - i Holds the Application Area in accordance with tikanga;
 - ii Has exclusively used and occupied the Application Area from 1840 to the present, without substantial interruption to that use and occupation;
 - iii Have exercised non-commercial customary fishing rights in the Marine and Coastal Area, and have done so from 1840 to the present day; and
 - iv Have owned land abutting the Marine and Coastal Area, and have done so, without substantial interruption, from 1840 to the present day; and
 - v Is applying for rights that have not been extinguished as a matter of law; and
 - vi On the further grounds set out in the affidavit of Tihi-Anne Daisy Noble dated 30 March 2017.

APPLICATION MADE IN RELIANCE

8 The application is made in reliance on:

- a Sections 51(1), 58, 59, 94, 98, 100, 101 and 107 of the Act;
- b The affidavit of Tihi-Anne Daisy Noble dated 30 March 2017 in support of this application; and
- c Further evidence to be filed on behalf of the applicant.

CONTACT DETAILS

9 The contact details for the applicants and the party named to hold the orders is:

Te Korowai o Ngāruahine Trust
147 High Street, Hāwera, Taranaki
PO Box 474, Hāwera, Taranaki, New Zealand, 4640
Phone: (06) 278 7411
Mobile:
Email: info@ngaruahine.iwi.nz

ORDERS SOUGHT

10 The applicant respectfully seeks the following orders:

- a Recognising that the Trustees of Te Korowai o Ngāruahine Trust for and on behalf of the applicant hapū has protected customary rights in, and customary marine title over, the Marine and Coastal Area;
- b Setting out that recognition be made in the name of Trustees of Te Korowai o Ngāruahine Trust;
- c That Trustees of Te Korowai o Ngāruahine Trust are named as the holder of the protected customary rights and customary marine title orders; and
- d Costs in the event that this applicant is opposed by any other party.

Date 3 April 2017.

A handwritten signature in black ink, appearing to read 'DE Edmunds', written over a horizontal line.

Deborah Edmunds
Solicitor / Counsel for the Applicant

Address for service:

This document is filed by **Deborah Edmunds**, solicitor for the Applicant, of the firm Kensington Swan, Wellington. The address for service of the is 89 The Terrace, Wellington 6011. Documents for service on the applicant may be left at the address for service, or may be –

- a Posted to the solicitor at c/- Kensington Swan, Private Bag 10 246, Wellington 6143; or
- b Left for the solicitor at a document exchange for direction to Kensington Swan, SP26517, Wellington; or
- c Emailed to deborah.edmunds@kensingtonswan.com