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CV-2017-404-570

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

IN THE MATTER OF

an application under the Marine and Coastal Area
(Takutai Moana) Act 2011

BETWEEN

Jane Hotere, Rosaria Hotere and Anania Wikaira
for and on behalf of Te Hikutu Hapū
Applicant

AND

The Attorney-General
Respondent

Application under section 101 Marine and Coastal Area (Takutai Moana) Act 2011

Dated this 3rd day of April 2017

ORANGANUI LEGAL

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Counsel Acting: Eve Rongo

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| HIGH COURT |
| FW:127/17 |
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**Application under
Section 101 Marine and Coastal Area (Takutai Moana) Act 2011**

To: Registrar, High Court Wellington

And to: The Respondent by its solicitor

Take notice that the applicant on behalf of the **Te Hikutu Hapū** will apply to the High Court for the following orders:

- A. Under section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”), recognising a protected customary right (a “Protected Customary Rights Order”); and
- B. Under section 98 of the Act, recognising customary marine title (a “Customary Marine Title”).

As described herein:

- 1. Pursuant to section 101(b) of the Act, the description of the protected customary right sought in the Protected Customary Rights Order is the right to exercise all aspects of tinorangatiranga o Te Hikutu hapū in relation to the “**Te Hikutu hapū takutai moana area**”.
- 2. Pursuant to section 101(c) of the Act, the applicant group is Te Hikutu hapū, being the descendants of Kupe.

3. Pursuant to section 101(d) of the Act, the **Te Hikutu hapū takutai moana area** to which the application relates is that area that is bounded:

(a) On the landward side, by the line of mean high-water springs; and

(b) On the seaward side, by the outer limits of the territorial sea;

and which includes the beds of rivers, the airspace and the water space above, and the subsoil, bedrock and other matter including natural resources within the Te Hikutu takutai moana area described as: within the Hokianga Harbour from Te Ramaroa in the south look to Whiria in the West, then look to the North to Pou Whakakiwa at the mouth of the Whirinaki River, including Mahena Island, then look to the East to Tahere to the mouth of the Omanaia River and then looking back to Te Ramaroa. This is the area that we know as our traditional region of influence and control.

4. Te Hikutu also have shared interests with other iwi and hapū in the area from the Hokianga Harbour over to Matauri Bay, down Te Ngaere, Rangihoua, Pewhairangi, through Ngati Wai rohe to Poor Knights Islands and all the way down to Tamaki Makaurau.

Upon the Grounds

5. The right to exercise all aspects of te tino rangatiratanga o Te Hikutu hapū is a right that:

- (a) Has been exercised prior to, and since, 1840; and
 - (b) Continues to be exercised in the Te Hikutu takutai moana area in accordance with tikanga by the applicant group; and
 - (c) Is not extinguished as a matter of law.
6. The applicant group Te Hikutu hapū holds the Te Hikutu takutai moana area in accordance with tikanga.
7. The applicant group Te Hikutu hapū has, in relation to the Te Hikutu takutai moana area:
- (a) Exclusively used and occupied it from 1840 to the present day without substantial interruption; and/or
 - (b) Received it through customary transfer between or among members of the applicant group in accordance with tikanga (as defined in section 58(3) of the Act).
8. The applicant group Te Hikutu hapū exercise non-commercial customary fishing rights in the Te Hikutu takutai moana area and have done so from before 1840 to the present day.
9. The person to be the holder of the Recognition Orders as the representative of the applicant group shall be Anania Wikaira. However the rights holder will be an issue for us to determine as a hapū in the normal manner of consultation among our whanau and hapū, and hui held in accordance with our tikanga.

And upon the grounds identified in the Affidavit filed in support of this application.

This application relies on section 101 of the Marine and Coastal Area (Takutai Moana) Act 2011.

DATED this 3rd day of April 2017



Eve Rongo

Counsel for the Applicant Group

This application is filed on behalf of the Applicant be EVE KAHUWAERO RONGO, Barrister and Solicitor, of Paraparaumu. The address for service of the abovenamed applicant is at the office of the solicitor at 63 Awatea Avenue, Paraparaumu 5032.

Documents for service on the abovenamed applicant may be left at that address or may be:

- a. Posted to the solicitor at PO Box 809, Paraparaumu 5254; or
- b. Transmitted to the solicitor by email in PDF version to eve@oranjanellegal.com with the original document to follow by post.



