

In the High Court of New Zealand  
Blenheim Registry

CIV-2017-485-M1

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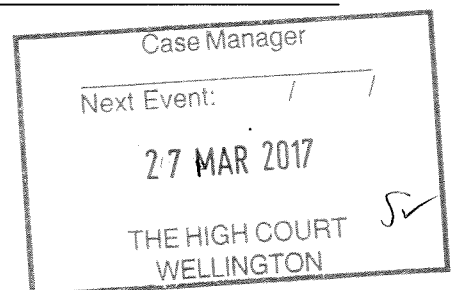
In the matter of the Marine and Coastal Area (Takutai  
Moana) Act 2011

And in the matter of an application by the Hinehau  
Tahuāroa - Riwaka Houra whanau,  
Puketapu hapū seeking recognition  
orders under that Act

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**APPLICATION FOR RECOGNITION ORDERS**

Dated 24 March 2017



Counsel: Tom Bennion / Lisa Black  
Bennion Law  
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Featherston Street 6140  
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**To:** The Registrar of the High Court at Wellington

**And to:** Marlborough District Council

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

**THIS DOCUMENT NOTIFIES YOU THAT:**

1. The Hinehau Tahuāroa - Riwaka Houra whanau, will on 24 March 2017 apply to the Court for recognition orders under the Act relating to a particular area of the common marine and coastal area around Waikawa Bay and Whatamango Bay, Marlborough bounded by on the landward parts by the line of mean high-water springs and on the seaward by the territorial sea ("Hinehau Tahuāroa - Riwaka Houra whanau rohe moana") and marked in the map attached as Appendix A.
2. The orders sought are protected customary rights and customary marine title in the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana arising from:
  - 2.1. Permanent occupation of Waikawa Bay and Whatamango Bay by the Hinehau Tahuāroa - Riwaka Houra Watson whanau and use of the surrounding foreshore and seas from around the mid to late 17th century and up until today without substantial interruption;
  - 2.2. The taking of marua, terakihi, gurnard, sharks, and other fish;
  - 2.3. The taking of seals, penguins, dolphins, and whales;
  - 2.4. The taking of seabirds including albatross;
  - 2.5. The taking of shellfish including kukutai, pipis, cockles, oysters, kina, pāua, kōura, crabs and others;
  - 2.6. Taking of aquatic plants;
  - 2.7. Passage over and these areas in waka and landing of waka;
  - 2.8. Bathing and recreation;
  - 2.9. Collection of sand and stones, shingle and detritus;
  - 2.10. Designation of wāhi tapu;

- 2.11. And all ways of life and cultural practices associated with the above takings and uses including cultural practices founded in spiritual beliefs including the saying of karakia tawhito, karanga, imposition of rahui, exercise of kaitiakitanga and mana, naming of places in the sea to specify fishing areas and people who had authority over them;
- 2.12. and all other customary uses of the common marine and coastal area around Waikawa and Whatamango Bays.

### **DESCRIPTION OF APPLICANT GROUP**

3. Hinehau Tahuāroa - Riwaka Houra whanau have occupied Waikawa Bay and Whatamango Bay for around 190 years Before Present.

### **GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT**

4. The Hinehau Tahuāroa - Riwaka Houra whanau seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana may be recognised by an order of the Court made on an application under s 100 of the Act.
5. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
6. The Applicant Group meets the requirements in s 51 (1) of the Act because it:
  - 6.1. has exercised the rights before and since 1840; and
  - 6.2. continues to exercise those rights in the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
  - 6.3. is applying for rights that have not been extinguished as a matter of law.

## **GROUND ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION ORDER IS SOUGHT**

7. Hinehau Tahuāroa - Riwaka Houra whanau seeks a customary marine title recognition order on the grounds that its customary marine title relating to the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana may be recognised by an order of the Court made on an application under s 100 of the Act.
8. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.
9. The Applicant Group meets the requirements in s 58 of the Act because it:
  - 9.1. holds the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana in accordance with tikanga; and
  - 9.2. has, in relation to the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
  - 9.3. the customary marine title has not been extinguished as a matter of law.
10. In terms of matters that may be taken into account in determining whether the Applicant Group's customary marine title exists in the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana:
  - 10.1. the Applicant Group have owned land abutting the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana and have done so, without substantial interruption, from 1840 to the present day; and
  - 10.2. the Applicant Group have exercised non-commercial customary fishing rights the Hinehau Tahuāroa - Riwaka Houra whanau rohe moana and have done so from 1840 to the present day.

## **PERSON TO HOLD THE ORDERS**

11. The Hinehau Tahuāroa - Riwaka Houra whanau will be the holder of the orders.

## **APPLICATION MADE IN RELIANCE**

12. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the affidavit of Trevor Watson which set out in full the basis on which the Hinehau Tahuāroa - Riwaka Houra whanau is entitled to the recognition orders sought.

## **CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER**

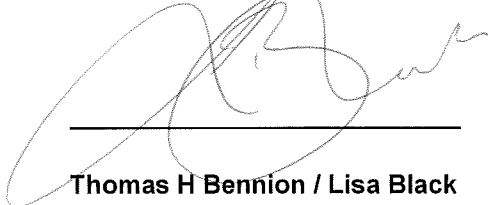
13. The contact address of the Applicant and person named to hold the order is:

Trevor Watson  
Ruapara Bay  
Onauku  
Arapaoa Island  
Picton 7220

14. The contact telephone number is 027 573 7372

15. The contact email is [tahuaroawatson@xtra.co.nz](mailto:tahuaroawatson@xtra.co.nz)

Dated at Nelson this 24 March 2017



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**Thomas H Bennion / Lisa Black**

Counsel for the Hinehau Tahuāroa - Riwaka Houra whanau

This document is filed by Thomas Bennion, Solicitor for the Hinehau Tahuāroa - Riwaka Houra whanau.

The address for service of the Hinehau Tahuāroa - Riwaka Houra whanau is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

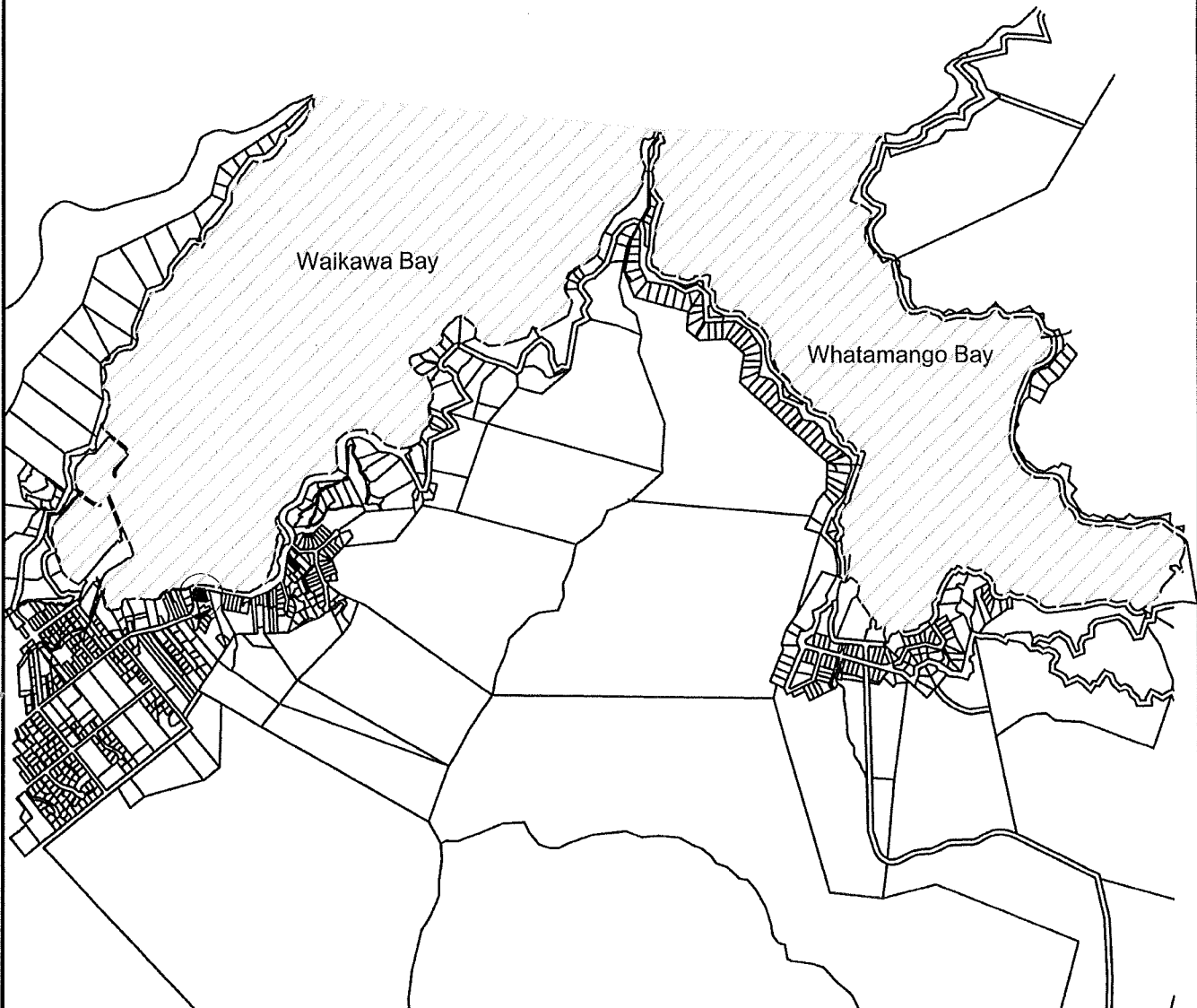
Documents for service on the above-named applicant may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street,  
Wellington 6146; or

Transmitted to the solicitor by email to [tom@bennion.co.nz](mailto:tom@bennion.co.nz)

APPENDIX A

HINEHAU TAHUĀROA - RIWAKA HOURA WHANAU ROHE MOANA



- ① Pt Waikawa Village Sec 10C1 (CT MB51/283)
- ② Waikawa Village Sec 10B (CT MB52/101)

<p><b>GILBERT, HAYMES &amp; ASSOCIATES LTD</b> REGISTERED SURVEYORS P.O. BOX 380-14 QUEEN STREET-BLENHEIM PHONE (03)5787984-FAX (03)5787709 E-MAIL gilberthaymes@xtra.co.nz</p>	<p>Customary Marine Title Application</p>	<p>SCALE 1:25000 - A4 DATE 23 MAY 2012 JOB REF. JOB ID. 9115 CAD FILE</p>
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