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**IN THE HIGH COURTS OF NEW ZEALAND CIV-2017- 485 - 268**  
**WHANGAREI REGISTRY**

**IN THE MATTER OF**

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

**AND IN THE MATTER OF**

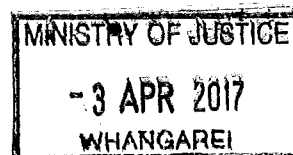
an application by Trevor  
Wi Kaitaia, Pereniki  
Tauhara, Glen Larkin  
Kaiwaka and Atihana  
Johns of Nga Hapu o Ngati  
Kahu for an order  
recognising Customary  
Marine Title and Protected  
Customary Rights.

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**APPLICATION BY TREVOR WI KAITAIA, PERENIKI  
TAUHARA, GLEN LARKIN KAIWAKA AND ATIHANA JOHNS  
OF NGA HAPU O NGATI KAHU  
FOR RECOGNITION ORDERS PURSUANT TO THE MARINE  
AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

Dated 2 April 2017

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- To:** The Registrar of the High Court at Whangarei;
- and to:** The Northland Regional Council and Far North District Council with statutory functions in this area.
- and to:** The Department of Conservation, Department of Internal Affairs, Environment Protection Agency, Ministry of Business Innovation and Environment, New Zealand Petroleum and Minerals, Ministry of Arts Culture and Heritage, Heritage New Zealand Pouhere Taonga with statutory functions relating to land adjacent to the application area.
- and to:** The Solicitor General on behalf of the Attorney-General.

**This document notifies you that:**

1. Trevor Wi Kaitaia, Pereniki Tauhara, Glen Larkin Kaiwaka and Atihana Johns of Ngati Kahu will apply to the High Court for an order pursuant to s98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”) to recognise the customary marine title and / or protected customary rights of Nga Hapu o Ngati Kahu.
2. The applicants seek orders for the takutaimoana / common marine and coastal area in order to take into account the Treaty of Waitangi (te Tiriti o Waitangi) and the principles of the Treaty of Waitangi (te Tiriti o Waitangi) in the exercise of the protection of recognised customary rights and the exercise and recognition of customary marine title of Nga Hapu o Ngati Kahu.

### **Protected Customary Rights**

3. Nga Hapu o Ngati Kahu ancestors utilised the common marine and coastal area for:

- a) Customary fishing including patiki-mohoao (flounder), paatikirori (sole) taamure / karati (snapper), kanae (grey mullet), tarakihi, maomao (blue maomao), albacore, parore, kahawai, tuna, shark, hapuka, matiri (blue nose), koaea, marari, tarao (butterfish), kingfish, trevally, gurnard, patiki, kapeta (dog fish), john dory (kuparu) and inanga (whitebait) using nets, hinake and fishing lines.
- b) Customary shell fish gathering including oysters, cockles, pipi, mussel, paua, crayfish, scallops, tuatua and pupu.
- c) Nohoanga the practice of temporary camping sites for hapu and whanau.
- d) Tauranga Waka the practice of waka building and associated rituals.
- e) Resource Management and the conservation of the takutaimoana / common marine and coastal.
- f) The practice of Matauranga Maori including fishing grounds, shellfish beds, seasonal harvesting and navigation.
- g) The practice of Customary Lore including tapu, rahui, makutu, harvesting, fishing grounds and shell fish beds.
- h) Minerals - the extraction of non-nationalised minerals for non-commercial purposes including shingle, shell and sand.
- i) Natural Resources - The collection of driftwood, shell and other natural resources for non-commercial purposes.
- j) Aquatic Plants - The gathering of aquatic plants for medicinal and edible purposes.
- k) Wahi tapu / wahi taonga – The protection of wahi tapu / wahi taonga (archaeology) sites in the common marine and coastal area.

- l) Conservation Estate – within the takutaimoana / common marine and coastal area.
- m) Kaitiakitanga (guardianship) of taharoa (whales) and marine mammals within the takutaimoana / common marine and coastal area.

**The Applicant Group:**

- 4. Trevor Wi Kaitaia, Pereniki Tauhara, Glen Larkin Kaiwaka and Atihana Johns representing Nga Hapu o Ngati Kahu whakapapa to Te Parata and Kahutianui the tupuna (ancestors) of Nga Hapu o Ngati Kahu and link to the application area as outlined in 6.
- 5. Trevor Wi Kaitaia, Pereniki Tauhara, Glen Larkin Kaiwaka and Atihana Johns representing Nga Hapu o Ngati Kahu have authority to make this application for and on behalf of the descendants of Nga Hapu o Ngati Kahu on the 21 January 2017.

**Area to which the application relates:**

- 6. The area to which this application relates to is the takutaimoana / common marine and coastal area (as defined in s9 of the Act) that is bounded:
  - a) on the landward side by the line of mean high-water springs;
  - b) on the seaward side by the outer limits of the territorial sea;
  - c) The southern boundary is located on the East Coast at Te Whatu (Berghan's Point) with an imaginary line to the 200 nautical mile Economic Exclusion Zone.
  - d) The northern boundary is an imaginary line through Rangaunu Harbour out to the 200 nautical mile Exclusive Economic Zone.
  - e) All of the sea, estuaries and tributaries area between the northern and southern boundaries out to the 200 nautical mile Exclusive Economic Zone;

- f) The area includes the takutaimoana /common marine and coastal area surrounding the following islands: Moturoa Island, Tuputupungahau Island, Rocky Island and Puketutu Island, and other relevant incidental islands therein.

**Grounds on which the protected customary rights order is sought:**

7. The grounds on which this order is sought are that :

- a) Nga Hapu o Ngati Kahu being a coastal group has relied heavily on Customary fishing including patiki-mohoao (flounder), paatikirori (sole) taamure / karati (snapper), kanae (grey mullet), tarakihi, maomao (blue maomao), albacore, parore, kahawai, tuna, shark, hapuka, matiri (blue nose), koaea, marari, tarao (butterfish), kingfish, trevally, gurnard, patiki, kapeta (dog fish), john dory (kuparu) and inanga (whitebait) and shellfish including oysters, cockles, pipi, mussel, paua, crayfish, scallops, tuatua and pupu and wetland food stocks foraged by whānau in the estuaries and coastal margins; and
- b) Nga Hapu o Ngati Kahu fishermen sought the deep water fish including shark and tuna that were not available around the inner shoreline; and
- c) Nga Hapu o Ngati Kahu also undertakes the following activities in the common marine and coastal area:
- a. Nohoanga (temporary camping) of Nga hapu o Ngati Kahu.
  - b. Tauranga waka and the practice of waka building and associated rituals.
  - c. Resource Management and the conservation of the coastal marine area including resource consenting activity.
  - d. Matauranga Maori for harvesting in traditional fishing grounds, shellfish beds and the knowledge of seasonal harvesting of fish and shellfish.

- e. Customary Lore including the practice of tapu, rahui, makutu, harvesting, fishing grounds, shell fish beds.
  - f. The extraction of non-nationalised minerals for non-commercial purposes including shingle, shell and sand.
  - g. Natural Resources and the collection of driftwood and other natural resources for non-commercial purposes.
  - h. The gathering of aquatic plants and flora for medicinal and edible purposes.
  - i. The protection of wahi tapu / wahi taonga, historic heritage of Nga Hapu o Ngati Kahu.
  - j. The purpose of gathering fish and shellfish for customary purposes such as tangihanga (funerals), cultural gatherings, manaakitanga (hospitality).
  - k. The purpose of seasonal kaimoana (seafood) exchange.
  - l. The purpose hapu marine culture (matauranga Maori).
  - m. The purpose of harvesting flora for medicinal and cultural purposes within the coastal marine area.
  - n. Cultural practices for the purposes of wananga.
  - o. The ongoing protection of taharoa (whales) and marine mammals within Nga Hapu o Ngati Kahu common marine and coastal area and associated rituals.
8. Nga Hapu o Ngati Kahu has undertaken The grounds on which this order is sought are that:
- d) Nga Hapu o Ngati Kahu being a coastal group has relied heavily on Customary fishing including patiki-mohoao (flounder), paatikirori (sole) taamure / karati (snapper), kanae (grey mullet), tarakihi, maomao (blue maomao), albacore, parore, kahawai, tuna, shark, hapuka, matiri (blue nose), koaea, marari, tarao (butterfish), kingfish, trevally, gurnard, patiki, kapeta (dog fish), john dory (kuparu) and inanga (whitebait) and shellfish including oysters, cockles, pipi, mussel, paua, crayfish, scallops, tuatua and

pupu and wetland food stocks foraged by whānau in the estuaries and coastal margins; and

- e) Nga Hapu o Ngati Kahu fishermen sought the deep water fish including shark and tuna that were not available around the inner shoreline; and
- f) Nga Hapu o Ngati Kahu also undertakes the following activities in the common marine and coastal area:
  - a. Nohoanga (temporary camping) of Nga Hapu o Ngati Kahu.
  - b. Tauranga waka and the practice of waka building and associated rituals.
  - c. Resource Management and the conservation of the coastal marine area including resource consenting activity.
  - d. Matauranga Maori for harvesting in traditional fishing grounds, shellfish beds and the knowledge of seasonal harvesting of fish and shellfish.
  - e. Customary Lore including the practice of tapu, rahui, makutu, harvesting, fishing grounds, shell fish beds.
  - f. The extraction of non-nationalised minerals for non-commercial purposes including shingle, shell and sand.
  - g. Natural Resources and the collection of driftwood and other natural resources for non-commercial purposes.
  - h. The gathering of aquatic plants and flora for medicinal and edible purposes.
  - i. The protection of wahi tapu / wahi taonga, historic heritage of Nga Hapu o Ngati Kahu.
  - j. The purpose of gathering fish and shellfish for customary purposes such as tangihanga (funerals), cultural gatherings, manaakitanga (hospitality).
  - k. The purpose of seasonal kaimoana (seafood) exchange.
  - l. The purpose hapu marine culture (matauranga Maori).

- m. The purpose of harvesting flora for medicinal and cultural purposes within the coastal marine area.
  - n. Cultural practices for the purposes of wananga.
  - o. The ongoing protection of taharoa (whales) and marine mammals within Nga Hapu o Ngati Kahu takutaimoana common and coastal marine area and associated rituals.
- g) Nga Hapu o Ngati Kahu has undertaken these activities listed above since 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
  - h) The applicants will provide more information once funding for research and legal representation is secured.
  - i) These activities listed above since 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
  - j) The applicants will provide more information once funding for research and legal representation is secured.

**Grounds on which the customary marine title application is made:**

- 9. The grounds on which this order is sought are that:
  - a) Nga Hapu o Ngati Kahu has held the application area in accordance with tikanga since 1840.
  - b) Nga Hapu o Ngati Kahu has exclusively used and occupied the application area from 1840 to the present day without substantial interruption.
- 10. Nga Hapu o Ngati Kahu will provide more information once funding for research and legal representation is secured.



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11. This application relies on s51 (1), s58, s98-113 of the Act and the Affidavit of Pereniki Tauhara kaumātua of Nga Hapu o Ngati Kahu.

Dated at Pampauria on Sunday the 2 April, 2017.



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*Tina Latimer for and on behalf of Nga Hapu o Ngati Kahu*