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IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

No: CIV:
CIV-2017-404 - 566

IN THE MATTER OF

Section 100 of the **Marine
and Coastal Area (Takutai
Moana) Act 2011**

AND

IN THE MATTER

of an application by **Pereri
Mahanga** of Taiharuru,
Lecturer, for and on behalf
of **Te Waiariki, Ngati
Korora, Ngati Takapari
Hapu/Iwi of Niu Tireni** for
orders recognising certain
of its title and/or certain of
its rights in relation to its
territorial land from
Taiharuru (Te Whara) to
Ngunguru (Tutukaka)
(Whangarei) together with
its appurtenant internal
waters and the outer limits
of its territorial appurtenant
sea

Application

Dated: 3 April 2017

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JPK-016751-11-4-V2

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HIGH COURT
03 APR 2017
AUCKLAND

AM

To the Registrar of the High Court at Auckland

And

To Whangarei District Council

And

To Northland Regional Council

And

To the Solicitor General on behalf of the Attorney General

This document notifies you that —

Application

1. The applicant, Pereri Mahanga, on behalf of Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi (being the applicant group) and in exercise of their inherent Mana and Tino Rangatiratanga, but without limiting, surrendering, or ceding the same, will on _____ apply to the court under s100 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**the Act**) for orders recognising the following:
 - 1.1 For the one part, the extent to which customary marine title under the Act happens to co-incide with certain of its title, rights and interests held and existing at tikanga under its Mana and Tino Rangatiratanga since time immemorial in respect of its territorial land abutting the coast from Taiharuru (Te Whara) to Ngunguru (Tutukaka) together with its appurtenant internal waters and the outer limits of its territorial appurtenant sea; and

1.2 For the other part, the extent to which a protected customary right under the Act happens to co-incide with certain of its rights and interests at tikanga and exercised since time immemorial in respect of its said territorial land together with its appurtenant internal waters and the outer limits of its territorial appurtenant sea, described (without limitation) to include the following:

- (a) The right to pass and re-pass over it without interference;
- (b) The right to launch, land, anchor, and stay on it without interference;
- (c) The right to take anything found on the shore of it without interference;
- (d) The right to take any produce of the sea that is over it without interference;
- (e) The right to take anything attached to the underlying land without interference;
- (f) The right to salvage anything within it without interference;
- (g) The right to conduct and undertake ceremonies there without interference;
- (h) The right to conduct and undertake trading activities there without interference.

The Applicant Group

2. The applicant group is Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi, Hapu of Niu Tireni.

Specified area

3. The particular area of the common marine and coastal area to which this application relates is specified as that which happens to co-incide with the following:

3.1 Firstly, the applicant groups said territorial land and further described by the map **attached** hereto and marked "A", and over which the applicant group has held and exercised Mana and Tino Rangatiratanga since time immemorial, and

3.2 Secondly, the band of internal waters and territorial sea of the applicant group that are reasonably appurtenant to the said territorial land firstly described, and over which the applicant group has held and exercised Mana and Tino Rangatiratanga since time immemorial.

Grounds on which the orders are sought

4. The grounds on which both orders are sought are as follows:

4.1 In relation to customary marine title-

(a) As a fact of history the specified area and everyone and everything within it and that is of the applicant group is subject to the Mana and Tino Rangatiratanga of the applicant group and thus possessed by the applicant group in terms of statehood including by virtue of-

- (i) Take tupuna;
- (ii) Take mau kaha;
- (iii) Take ahi kaa roa;

- (iv) Take noho tuturu.
- (b) Accordingly the applicant group has enjoyed use and occupancy of the specified area without interference or interruption from before 1840 to the present day; and
- (c) The said Mana and Tino Rangatiratanga of the applicant group over the specified area has not been extinguished with their consent, whether as a matter of law or of tikanga.

4.2 In relation to a protected customary right:

- (a) By virtue of the matters of Mana, Tino Rangatiratanga and of statehood in relation to the specified area and mentioned in the preceding paragraph, the applicant group is able to demonstrate that the said rights that its members enjoy-
 - (i) have been maintained and exercised since before 1840 and up to the present day;
 - (ii) have not been extinguished with their consent, whether as a matter of law or of tikanga.

Representative of Applicant Group

- 5. The holder of the orders sought will be Pereri Mahanga, a member of the applicant group, for and on behalf of the applicant group.

Contact Details

- 6. The contact details for the applicant and the applicant group are care of counsel filing and on the record for this application.

Affidavits in Support of Application

7. Attached and marked "B" is the affidavit of Pereri Mahanga, a member of the applicant group, in support of this application.

Any other information required by regulations made under s118(1)(i) of the Act

8. At the date of this application, no regulations under s118(1)(i) of the Act have been made.

Authorities relied on

9. This application is made in reliance on:

9.1 ss51(1), 58(1), 59, 94, 98, 100, 101 and 107 of the Act; and

9.2 Relevant tikanga, including, take tupuna, take mau kaha, take ahi kaa roa, take noho tuturu; and

9.3 International and domestic common law of the shore and the sea, including *The Grisbadarna Case*, *The Hague Arbitration Cases 1909*, *Lord Advocate v Young (1887) 12 App Cas 544* and *le Strange v Rowe (1866) 4 F & F 1048*.

Dated: 3 April 2017

Signature



John Pera Kahukiwa
Solicitor for Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi

This application is filed by **John Pera Kahukiwa**, solicitor for Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi of the firm Corban Revell, Lawyers. The address for service for the Koromatua Hapu of Ngati Whakaue is at the offices of Corban Revell, Lawyers, 133A Central Park Drive, Henderson, Auckland. Telephone: (09) 837-0550.

Documents for service on Te Waiariki, Ngati Korora, Ngati Takapari Hapu/Iwi may be left at the address for service or may be:

- (a) Posted to the solicitor at PO Box 21-180, Henderson, Auckland 0650;
or
- (b) Transmitted to the solicitor by facsimile to (09) 838-7187; or
- (c) Emailed to the solicitor at his email address
jkahukiwa@corbanrevell.co.nz.

