

THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY

CIV 2011-485-821

UNDER The Marine and Coastal Area (Takutai Moana) Act 2011

IN THE MATTER OF An application by NGĀTI PĀHAUWERA DEVELOPMENT TRUST for Customary Marine Title and Protected Customary Rights

IN THE MATTER OF An application by NGĀTI PĀHAUWERA (as originally filed by WAYNE TAYLOR, KUKI GREEN AND RUKUMOANA WAINOHU) for protected customary rights

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SUPPLEMENTARY AFFIDAVIT OF TORO EDWARD REGINALD WAAKA  
ON BEHALF OF THE TRUSTEES OF THE NGĀTI PĀHAUWERA  
DEVELOPMENT AND TIAKI TRUSTS

AFFIRMED 5 DECEMBER 2014

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NGĀTI PĀHAUWERA DEVELOPMENT TRUST  
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I, **TORO EDWARD REGINALD WAAKA**, Chairman and Tourism Operator of Napier solemnly and sincerely affirm:

1. On 7 February 2014 I provided an affidavit ("my February affidavit") on behalf of the Trustees ("the Trustees") of the Ngāti Pāhauwera Development Trust and the Ngāti Pāhauwera Tiaki Trust. I now affirm this supplementary affidavit on behalf of the Trustees.

**Further documents in support of application**

2. Since my February affidavit, some further documents of relevance have been located which I annexe as set out in the following paragraphs.

█ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] █ [REDACTED]  
[REDACTED]

4. Annexed and marked 'B' is 'Wairoa Heritage Workshop'<sup>2</sup> a document which recorded the discussions at a Hui for heritage management and protection held at Te Huki Marae, Raupunga in 1997. Discussion included archaeology and wāhi tapu concepts.

[REDACTED] █ [REDACTED]  
[REDACTED]  
[REDACTED]

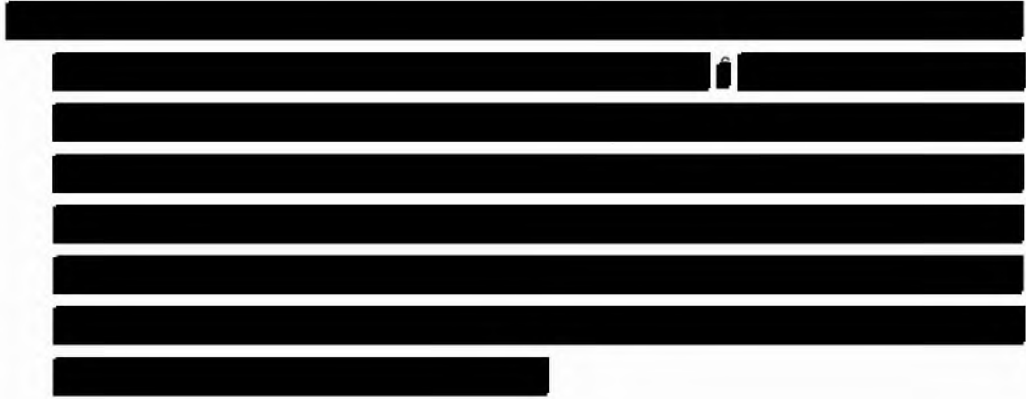
6. Annexed and marked 'D' is 'Fisheries Resource Inventory: The Mohaka River'.<sup>4</sup> This document was prepared by Fish and Game New Zealand and covers hydrology, biology, water quality, human use and threats to the fishery.

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<sup>1</sup> Susan Forbes and Warren Gumbley, *Ngati Pahauwera Rohe Archaeological Survey* (1996)  
<sup>2</sup> Toro Waaka and Susan Forbes, *Wairoa Heritage Workshop* (1997)  
<sup>3</sup> Elizabeth Pisheif, *Ngati Pahauwera: Places of Significance* (2009)  
<sup>4</sup> Matt Hickey, *Fisheries Resource Inventory: The Mohaka River*, Fish and Game New Zealand (2001)



7. Annexed and marked 'E' is 'Distribution and habitats of fishes in the Mohaka River'.<sup>5</sup> This includes information on the lower Mohaka River (flow, geology, fish, eel and whitebait stocks) and was because the Ministry of Agriculture and Fisheries was considering further up the Mohaka River as a potential dam site at that time.



9. Annexed and marked 'G' is 'Cultural Health assessment of the Mohaka, Waikari and Waihua rivers'.<sup>7</sup> This is a comprehensive report on the health of these three rivers. It gives the Ngāti Pāhauwera perspective and explains why we feel the responsibility to protect our taonga. This report reinforces that we have been monitoring the health of our streams and rivers for many years.
10. Annexed and marked 'H' is 'Ngati Pahauwera Incorporated Society Strategic Plan'.<sup>8</sup> Page 9 of this plan details what the Ngāti Pāhauwera Incorporated Society do for Ngāti Pāhauwera in the core area of interest.
11. Annexed and marked 'I' is 'A little bit of Pahauwera: Whanau Marae Arts'<sup>9</sup> a book produced in 2014 by the renowned artist Sandy Adsett. This book has an art focus but also many valuable photographs and interviews of Ngāti Pāhauwera members about our history, whenua, their individual

<sup>5</sup> Ministry of Agriculture and Fisheries, *Distribution of Habitats of Fishes in the Mohaka River* (1985)

<sup>6</sup> Toro Waaka, *Cultural Impact Report: Mohaka and Waikare Energy Development Investigative Study*, (2007)

<sup>7</sup> Toro Waaka, *Cultural Health assessment of the Mohaka, Waikari and Waihua Rivers* (2011).

<sup>8</sup> Ngāti Pāhauwera Incorporated Society, *Strategic Plan 2012-2017*, (2011)

<sup>9</sup> Sandy Adsett, *A little bit of Pahauwera*, (2014)

whanau and memories. Many of the stories in this book are touched on in the other affidavits provided in support of this application.

12.

[REDACTED]

13. Annexed and marked 'K' are some additional photographs showing a Reti Board wananga and some whanau rafting and fishing in the application area.

14. Annexed and marked 'L' is a letter of support from the Wairoa Museum.

#### **Ngāti Pāhauwera ready for Independent Assessor's views**

15. Ngāti Pāhauwera are ready for the Independent Assessor to consider our evidence and give their view on whether we meet the tests under the Marine and Coastal Area (Takutai Moana) Act 2011 for Customary Marine Title, Protected Customary Rights and Wahi Tapu Protection.

16. Our evidence was ready earlier this year but the process was delayed while we tried to deal with another group that had unexpectedly made an application which overlapped part of our application area which had previously been widely acknowledged as exclusively Ngāti Pāhauwera. There were months of delay while we tried to agree a process to deal with the situation. Eventually we pulled our application back to a smaller area. I do not go into the details here because we will make a further application from Ponui Stream south, but the Trustees believe the delay caused by this overlap confirms our decision to initially seek recognition in only a core area where no other groups claim interests.

17. We are the only group to have had a hearing under the Foreshore and Seabed Act 2004, and since that 2008 hearing Ngāti Pāhauwera have been waiting for recognition. If we seek the full extent of our interests now we will have to wait for other groups to be ready, which may cause months



or years of delay. Our original application was filed in 2005, nine years ago, and we are ready for the Independent Assessor to give their view on the application area.

Affirmed at *Napier* this *5<sup>th</sup>* ) *[Signature]*  
day of *December* 2014 )  
before me: )

*[Signature]*  
A Solicitor of the High Court of New Zealand/Justice of the Peace

**Jara Bennett**  
**Solicitor**  
**Napier**

*[Signature]*