

# PĀNUI TAKUTAI MOANA

March 2022 - Information for applicants

E ngā whānau, ngā hapū me ngā iwi o te motu, tēnā koutou katoa. Ko te tūmanako ia, e ora tonu ana koutou. Pānui Takutai Moana provides you with the latest updates and developments that will help you with your application under te Takutai Moana Act 2011.

## Update on Crown Engagement

Since the announcement of the Takutai Moana Engagement Strategy in June last year, we have been contacting takutai moana applicants to discuss applications and what support we can provide. From this initial contact we have had the opportunity to meet and kōrero with many of you, for which we thank you. It has helped us get a sense of who is ready to progress their applications and how. The conversations so far have been diverse; some applications are ready to progress, and we are discussing next steps, while, for some, other kaupapa are the focus at the moment. In these instances, we will keep you updated on what is happening in your coastline and continue to check in regularly.

If you would like to discuss your application, please contact us at [takutaimoana@tearawhiti.govt.nz](mailto:takutaimoana@tearawhiti.govt.nz).

## Update on Recent Judgments – *Re Pāhauwera*, Dec 2021

The hearing covered an area in the Hawke's Bay, from Poututu stream to Awatoto. Three applications were heard alongside that of Ngāti Pāhauwera – Maungaharuru-Tangitū Trust (MTT), Ngāi Tahu ō Mōhaka Waikare (Ngāi Tahu) and Ngāti Pārau. Mana Ahuriri Trust, a Crown engagement-only applicant, appeared as an interested party.

Justice Churchman's [judgment](#) recognised both Protected Customary Rights (PCRs) and Customary Marine Title (CMT) in relation to the applications. However, in some areas, the Court found CMT could not be recognised, for reasons which included:

- Substantial interruption (to the regular use and occupation of those areas): for example, polluting discharge from the Whirinaki Pan Pac pipeline, and third-party use of the Marine Parade and Napier Port areas.

- Legal extinguishment: The Mōhaka Riverbed, under the Coal Mines Act Amendment Act 1903, was found to be navigable and therefore vested in the Crown, so CMT could not be recognised there.
- Shared exclusivity: The Judge was unable to recognise CMT where applicants claimed exclusive possession and there was no agreement as to shared exclusivity.

This judgment also explored the interpretation of the Act's wāhi tapu provisions, and the two routes by which applicants can seek recognition of CMT and PCRs through the Court and/or Crown Engagement. The decision is now under appeal.

## Resource Management Reform

We have updated the information on our website about the takutai moana rights connected to the Resource Management Act 1991 (the RMA). The information covers how takutai moana applicants, CMT and PCR groups can influence consenting and planning under the RMA, and can be found [here](#).

The Government is looking to replace the RMA, and the Minister for the Environment, Hon David Parker, is leading the reforms. The current plan is to introduce the Bills to replace the RMA later this year.

We are working with the Ministry for the Environment to ensure takutai moana rights are upheld in the new system. To help us develop advice to these Ministers, we are also setting up a technical reference group and have invited people who are experts in the RMA and takutai moana rights to join.

The timeframes to do this work are tight so we will be back in touch with more information about the work over the next few months.

### HOW TO CONTACT US

For any queries about this pānui please contact us at [takutaimoana@tearawhiti.govt.nz](mailto:takutaimoana@tearawhiti.govt.nz).