

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CIVIL DIVISION)**

OA /2022

IN THE MATTER OF the Infrastructure Act 2019

AND

IN THE MATTER OF certain lands that comprise and adjoin the
Manihiki Airport

AND

IN THE MATTER OF the need for an order of the Court to allow
the construction of new infrastructure on those lands

AN APPLICATION BY NIMETI NIMETI, as Executive Officer of
the Manihiki Island Government acting as
Infrastructure Manager

Applicant

APPLICATION FOR DIRECTIONS AS TO SERVICE

TIM ARNOLD P.C
Solicitors
Avarua

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of new infrastructure on those
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AN APPLICATION BY

JOHN-MARY NIMETI NIMETI,
as Executive Officer of the
Manihiki Island Government
acting as Infrastructure Manager

Applicant


**APPLICATION FOR DIRECTIONS AS TO SERVICE PURSUANT TO SECTION 46(2) OF THE
INFRASTRUCTURE ACT 2019**

THE abovenamed Applicant will apply to the High Court at Rarotonga on the day of 2022
for directions as to service in these proceedings **UPON THE GROUNDS;**

- a) that section 46(2) of the Infrastructure Act 2019 provides that the Application for orders under section 44 and 47 of that Act must be served as directed by the Court;
- b) the matter involves substantial works on the island of Manihiki in which there is both public interest and interest on the part of affected landowners;
- c) as part of a lengthy process of consultation and negotiation with affected landowners, consensus has been reached, as evidenced by the informal draft Enduring Agreement filed in these proceedings;
- d) the lands in question not having been investigated and it not being practicable to do so in the near future, the Enduring Agreement cannot legally take effect, as such, but must instead form the basis of an order of the Court under section 47 of the Act.
- e) For now, the "owners" of the land not being capable of determination as contemplated by section 7, but Article 66A recognising the customary rights of those owners, it is appropriate that:

- i. notice be given to those customary owners on the island of Manihiki in the usual way in which matters affecting land are notified;
 - ii. notice be given to those owners who are absent from the island of Manihiki, elsewhere in the Cook Islands; and
 - iii. some form of notification be given in public and community forums, known to be hosted and used by those of the Manihiki community who are overseas.
- f) more particularly set out in the affidavit of John-Mary Nimeti Mineti filed herein in support and in the Memorandum filed in support of this application for directions.

Dated at Rarotonga this 25th day of August 2022


Counsel Moving

To: The Registrar of the High Court of Rarotonga

This application is filed by Timothy Paul Arnold, solicitor for the Applicant, whose address of service is at the offices of Tim Arnold P.C., Ingram House, Ruatonga, Rarotonga.