

CIV-2017-404-567

**IN THE HIGH COURTS OF NEW ZEALAND
AUCKLAND REGISTRY**

CIV-2017-

IN THE MATTER OF

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

AND IN THE MATTER OF

an application by MARAMA
STEAD for an order
recognising Customary
Marine Title and Protected
Customary Rights.

MARAMA STEAD APPLICATION
**FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND COASTAL
AREA (TAKUTAI MOANA) ACT 2011**

Dated 29th March 2017

RIGHTLAW

Barristers and Solicitors
AUCKLAND
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HIGH COURT
FW 126/17
31 MAR 2017
AUCKLAND

CS

CB

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To: The Registrar of the High Court at AUCKLAND;

and to: Local authorities (Regional and/or District Councils) with statutory functions in the application area) *Auckland City Council*

and to: Local authorities with statutory functions relating to land adjacent to the application area) *Department of Conservation, Transit,*

The Solicitor General on behalf of the Attorney-General.

and to:

This document notifies you that:

1. MARAMA STEAD 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 protected customary rights of Te Taou.

Protected Customary Rights

2. *Te Taou* ancestors utilised the common marine and coastal area for *fishing, gathering shellfish, seaweed, stones, pumice, semi precious stones, minerals, shells, drift wood, whale and whale bones;*

The Applicant Group:

3. The *Te Taou* whakapapa to *Otene Kikokiko and Matatire Koraheke*. *MARAMA STEAD* was appointed to make this application for and on behalf of the *Te Taou* on 27th March 2017.

Area to which the application relates:

4. The area to which this application relates is the 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. on the Northward side by a line that extends from the coast abutting Whatapu including any islands] to the outer limits of the territorial sea; and
 - d. on the southward side by a line that extends from the coast abutting

Waimamaku River including any islands to the outer limits of the territorial sea.

5. The area includes the common marine and coastal area surrounding the following islands: All islands and reefs lying off shore from the coastline to a distance of 12 nautical miles

Grounds on which the protected customary rights order is sought:

6. The grounds on which this order is sought are that :
 - a. Te Taou being a coastal group has relied heavily on among others Blue cod, Moki, hoki, kawhai, trevelly. John dory, teraki, blue nose, kingfish, trumpeter, hapuka, snapper, marlin, sailfish, shark, toheroa, scallops, mussels, oysters, pipis, mutton birds, whale, paua, ling sole, flounder, tuna, lobster, crab, tuatua, cockles, clams, eels, hake, groper, mullet, squid and wetland food stocks foraged by whanau in the estuaries and coastal margins; and
 - b. Te Taou fishermen sought the deep water fish that were not available around the inner shoreline; and
 - c. Te Taou also undertakes the following activities in the common marine and coastal area: fishing, gathering shellfish, seaweed, stones, pumice, semi precious stones, minerals, shells, drift wood, whale and whale bones.
 - d. Te Taou has undertaken these activities since and before 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
7. Te Taou will deliver more information once funding for research and legal representation is secured.

Grounds on which the customary marine title application is made:

8. The grounds on which this order is sought are that :
 - a. Te Taou has held the application area in accordance with tikanga since before 1840.
 - b. Te Taou has exclusively used and occupied the application area from

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1840 to the present day without substantial interruption.

9. Te Taou will deliver more information once funding for research and legal representation is secured.
10. The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of rangatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; use of takutai moana as tauranga waka; planting and harvesting of native flora; aquaculture - growth and harvest of kai moana; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.
11. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, inter alia:
 - a. The preservation and maintenance of mana motuhake, rangatiratanga and kaitiakitanga of the takutai moana-foreshore and seabed;
 - b. The sustenance and continued observance of customary and traditional practices, integral to tikanga carried out by descendants of Te Taou;
12. The sustenance and physical, spiritual and cultural well-being of all The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of rangatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; use of takutai moana as tauranga waka; planting and harvesting of native flora; aquaculture - growth and harvest of kai moana; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.
13. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, inter alia:
 - a. The preservation and maintenance of mana motuhake, rangatiratanga and kaitiakitanga of the takutai moana-foreshore and seabed;
14. The sustenance and continued observance of customary and traditional practices, integral

to *tikanga* carried out by descendants of The activities, uses or practices which are claimed to be the subject of and deserving recognition of protected customary rights and/or customary marine title are the exercise of *rangatiratanga* over the *takutai moana* foreshore and seabed; the exercise of *kaitiakitanga* over the *takutai moana* foreshore and seabed; use of *takutai moana* as *tauranga waka*; planting and harvesting of native flora; aquaculture - growth and harvest of *kai moana*; extraction of fossils, rock, sand and minerals; and complimentary customary activities, uses and practices to be the subject of evidence at the hearing of this application.

15. The purpose for which the activities, uses and practices were and are carried on, exercised and followed include, *inter alia*:
 - a. The preservation and maintenance of *mana motuhake*, *rangatiratanga* and *kaitiakitanga* of the *takutai moana*-foreshore and seabed;
 - b. The sustenance and continued observance of customary and traditional practices, integral to *tikanga* carried out by descendants of Te Taou;
 - c. The sustenance and physical, spiritual and cultural well-being of all Te Taou whanau, hapu and iwi;
 - d. The economic development of Te Taou whanau, hapu and Iwi; and
 - e. The conservation of natural and physical resources in the *takutai moana*-foreshore and seabed.
16. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Te Taou governing these activities, uses and practices will be provided in the evidence from the Te Taou descendants to be given at hearing.
17. The activities, uses and practices for which the descendants of Te Taou seek recognition as protected customary rights and/or providing the foundation for customary marine title:
 - a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Te Taou in a substantially uninterrupted manner since 1840 in the area of the *takutai moana* (including public foreshore and seabed) specified herein;

- b. If interrupted since 1840 then only by unlawful interruption or interference;
 - c. Are not prohibited by any enactment or rule of law; and
 - d. Have not been extinguished as a matter of law.
18. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Te Taou are included in this application. Whilst the particulars in this schedule are linked, by specific reference, to particular customary uses, activities and practices, they are also generic to all.
- a. Te Taou;
 - b. The sustenance and physical, spiritual and cultural well-being of all Te Taou whanau, hapu and iwi;
 - c. The economic development of Te Taou whanau, hapu and Iwi; and
 - d. The conservation of natural and physical resources in the takutai moana-foreshore and seabed.
19. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Te Taou governing these activities, uses and practices will be provided in the evidence from the Te Taou descendants to be given at hearing.
20. The activities, uses and practices for which the descendants of Te Taou seek recognition as protected customary rights and/or providing the foundation for customary marine title:
- a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Te Taou in a substantially uninterrupted manner since 1840 in the area of the takutai moana (including public foreshore and seabed) specified herein;
 - b. If interrupted since 1840 then only by unlawful interruption or interference;
 - c. Are not prohibited by any enactment or rule of law; and
 - d. Have not been extinguished as a matter of law.

21. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Te Taou are referred to in this application. Whilst the particulars in this application are linked, by specific reference, to particular customary uses, activities and practices, they are also generic to all.
- a. Te Taou whanau, hapu and iwi;
 - b. The economic development of Te Taou whanau, hapu and Iwi; and
 - c. The conservation of natural and physical resources in the takutai moana-foreshore and seabed.
22. The applicants hold, in accordance with *tikanga* customary rights and customary marine title over the marine and coastal area (as defined) as particularised herein. The *tikanga* integral to the descendants of Te Taou governing these activities, uses and practices will be provided in the evidence from the Te Taou descendants to be given at hearing.
23. The activities, uses and practices for which the descendants of Te Taou seek recognition as protected customary rights and/or providing the foundation for customary marine title:
- a. Have been and continue to be carried on, exercised and followed in accordance with *tikanga* of the descendants of Te Taou in a substantially uninterrupted manner since 1840 in the area of the takutai moana (including public foreshore and seabed) specified herein;
 - b. If interrupted since 1840 then only by unlawful interruption or interference;
 - c. Are not prohibited by any enactment or rule of law; and
 - d. Have not been extinguished as a matter of law.
24. Particulars, sufficient for the purposes of this application (including as to its public notification), as to the scale, extent and frequency of the activities, uses and practices carried on, exercised and followed by the descendants of Te Taou as mentioned in this application. Whilst the particulars in this schedule are linked, by specific reference, to particular customary uses, activities and practices, they are also generic to all.

Contact Details:

6. The *MARAMA STEAD* for *Te Taou* is:
C/o G Sharrock

Rightlaw Limited

11 Kaihu Street, Northcote Auckland

7. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of Marama Stead, kaumatua of Te Taou.

Dated at *HELENSVILLE* on the *29 MARCH 2017*

ew Stead
MARAMA STEAD

ew Stead

TE KAUNIHERA MAORI O TE TAOU AND MANAKAU WHANAU
Schedule of Particulars of Marine Title & Protected Customary Rights

Marama Stead
Applicant

NGA TUPUNA :

Papatuanuku = Ranginui = Tangaroa

Puhi Moana Ariki

Kupe - Kuramarotini

Nukutawhiti

Ruanui

Hauangiangi

Tahuhu Nui O Rangī

Punateahiahi

Ahuaiti = Rahiri

Uenuku ki te Marangai, Kaharau ki te Hauauru Haumoewharangi, Makawe,

Auha, Te Hotete, Kauteawha, Hongi Hika, Ururoa, Pomare I, II, Waihi akeeke

Taurapoho, Mahia, Tupoto, Tamati Waka Nene, Patuone, Otene Kikokiko, Matatire Koreheke, Kiwara Te Ro

ROHE POTAE
 Maps &
 Boundaries

KAIPARA

PROOF of OWNERSHIP

Whakapapa tuakana teina mana whenua mana moana – refer to *He Whakaputanga me te Tiriti – The Declaration and the Treaty* – Waitangi Tribunal Stage One Report Te Paparahi O Te Raki WAI 1040 Inquiry – November 2014.

ACTIVITIES
 How it is
 Carried Out –
 How Often

Shellfish hand-gathering, hand and rod fishing, netting, free diving, daily and seasonal based on te maramataka. Whale hunting was an annual activity.

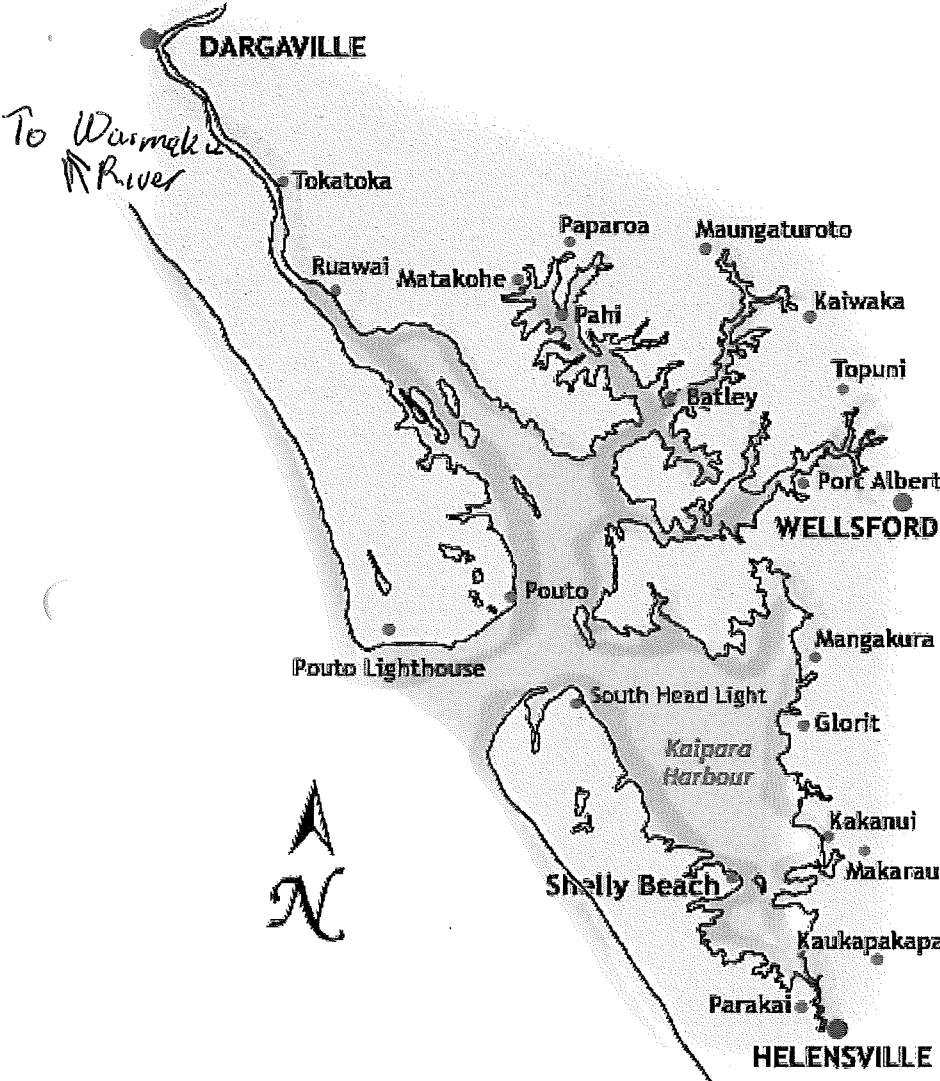
Karati (baby snapper), kawhai, parore (black snapper), araara (trevally), kuparu (john dory), tarakihi, maroro (flying fish), tuere (blind eel), pakirikiri (butterfish), pia (lamprey), kokopu (esturine cockabully), paea (swordfish), kehe (marblefish), tuna (blue nose), kotare (kingfish), kohikohi (trumpeter), tohoroa (whale), hapuka (groper), tamure (snapper), takeketonga (marlin), mango (dogfish/shark), mango ururoa (white shark), mango taniwha (white pointer shark), patiki (flounder), tarore (sole), kanae (mullet), warahenga (stingray), porae, kumukumu (gurnard), tikati (gemfish), ngu (squid), wheke (octopus), inanga (esturine whitebait), karawaka wai tote (esturine crayfish), aua (herring/sprat). Toheroa, tuatua, tipatipa, kutai, puruwha, tio, pipi, kokata, oi, titi, paua, koura, papaka, tuatua, tuangi (clam), kina, pupu, karahu, rimurimu.

The gathering of sand, stones, driftwood, flotsam and jetsam. Use of the area for camping, repair and storage and launching of boats, for transport and trade.

He Whakaputanga 1835 and Te Tiriti O Waitangi 1840 underpin the legal obligations of the Act.

The crown have disrupted and continue to disrupt the rangatiratanga rights and interests of the constituents of Te Kaunihera Maori O Te Tai Tokerau.

NGA TIKANGA Governing the Activity(s)	Te Ao Maori, matariki ki te takutaimoana, mana whenua mana moana, nga toka ki nga whanau hapu ki te moana, whaka whanaungatanga, mana tapu, mana muru, mana tikanga rahui					
ROHE POTAE Mahinga kai, mahinga mataitai, taiapure (Maps & Boundaries)	As outlined on the maps attached.					



To Waitapu
/ Northhead of
Manukau

