

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV-2017-485-185

IN THE MATTER

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

IN THE MATTER

of an application by **CAROLINE TAKOTOHIWI**
on behalf of Ngai Taiwhakaea Hapu for a
recognition order of protected customary rights
and/or customary marine title under the Marine &
Coastal Area (Takutai Moana) Act 2011

**APPLICATION PURSUANT TO THE MARINE & COASTAL AREA
(TAKUTAI MOANA) ACT 2011 FOR A RECOGNITION ORDER OF
PROTECTED CUSTOMARY RIGHTS AND/OR CUSTOMARY MARINE
TITLE**

Dated: 29 March 2017

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Case Manager Michaela
Next Event 29 MAR 2017
THE HIGH COURT WELLINGTON

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**NGAI TAIWHAKAEA MARINE & COASTAL AREA (TAKUTAI
MOANA) CLAIM**

- TO:** The Registrar of the High Court at Wellington
- AND TO:** The regional and district (territorial) authorities with statutory functions in the application area
- AND TO:** The local authorities and central government agencies with statutory functions relating to land adjacent to the application area
- AND TO:** The Solicitor-General on behalf of the Attorney-General

THIS document notifies you that:

1. The applicant applies to the High Court for a recognition order of protected customary rights (s.51 of the Act) and/or customary marine title (s.58 of the Act). The applicant's contact details are set out at the end of this application.
2. The applicant herein bring this claim on behalf of the people of the hapu of Ngai Taiwhakaea who have mandated them to do so and who will engage progressively in this application.
3. The marine and coastal area (including foreshore and seabed) as defined in s.9 of the Act, to which this application relates, is in broad perspective (and subject to later refinement) all of the coastline, tributaries, rivers and harbours included in the area beginning Te Awa o te Atua to the original Te Orini River mouth at the Whakatane river harbour inclusive of the Tarawera and Rangitaiki Rivers; from Whakatane harbour looking up to Taumata Kahawai following the coastal line to Otarawairere to Ohiwa harbour and out 12 nautical miles including Rurima Islands and Moutohora and 12 nautical miles out from Rurima and Moutohora. Further delineation of the marine and coastal area the subject of this application will be provided upon the finalisation of kaumatua evidence and research.
4. The activities, uses and practices claimed to be the subject of and justifiable recognition of protected customary rights and/or coastal marine

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title are the exercise by the hapu of rangatiratanga over the takutai moana foreshore and seabed; the exercise of kaitiakitanga over the takutai moana foreshore and seabed; the use of takutai moana as tauranga waka; planting and harvesting of native flora; growth and harvest of kai moana including aquaculture; extraction of fossils, rock, sand and minerals; and complementary customary activities, uses and practices which will be the subject of evidence at the hearing of this application.

5. The purpose for which the activities, uses and practices set out above were and are carried on, exercised and followed, include among other things:
 - (a) The preservation and maintenance of 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 Ngai Taiwhakaea;
 - (c) The sustenance and physical, spiritual and cultural wellbeing of all the hapu of Ngai Taiwhakaea;
 - (d) The economic development of the hapu of Ngai Taiwhakaea;
 - (e) The conservation of natural and physical resources in the takutai moana foreshore and seabed of Ngai Taiwhakaea.
6. The legal entity proposed to represent Ngai Taiwhakaea is a trust to be formed in due course, the trustees of which it is proposed will hold the protected customary rights recognition order and/or the customary marine title.
7. The people of Ngai Taiwhakaea have, in accordance with tikanga, descent and whakapapa, customary rights and/or customary marine title over the marine and coastal area. The activities, uses and practices have been and continue to be carried on, exercised and followed in accordance with the tikanga of Ngai Taiwhakaea in a substantially uninterrupted manner since 1840 in the area of the takutai moana already defined.
8. The activities, uses and practices identified have, if interrupted since 1840, only been interrupted by unlawful interruption or interference.

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9. The activities, uses and practices for which recognition as protected customary rights and/or providing for the foundation of customary marine title are not prohibited by any enactment or rule of law and have not been extinguished as a matter of law.
10. Particulars sufficient to further particularise this claim as to the scale, extent and frequency of the activities, uses and practices carried on as customary rights and as a foundation for customary marine title, will be provided as the evidence in support of this application is finalised. Those particulars will be the subject of further explanation, expansion and refinement together with evidentiary support.
11. The area of the takutai moana claimed in this application has a relationship with and potentially overlapping interests in respect of other iwi or hapu claims in parts of the takutai moana foreshore and seabed more specifically in respect of Ohiwa Harbour.
12. The preferred location for the hearing by the High Court of this application is at marae within the rohe of the hapu of Ngai Taiwhakaea. In due course, proper application in accordance with the High Court Rules for the venue of the hearing of this application will be made on notice for the consideration of the Crown and for all interested parties.
13. The appointed representative bringing this application can be contacted as follows:
 - Caroline Takotohiwi: caroline664@gmail.com; and on 022 427719.
14. This application relies on ss.51, 58, 98-113 of the Act and the affidavit of Caroline Takotohiwi dated 28th March 2017 filed in support hereof.

DATED this 29th day of March 2017



Caroline Takotohiwi
Applicant

I have identified the six application areas as follows:

Application Area 1 – Otara o Muturangi

All common and coastal area from the southern boundary of Otara o Muturangi Urupa following the coastal line up to and including the area known as Okorero which is located between the west bank of the Rangitaiki and the east bank of Tarawera and the seaward boundary 22km or 12 nautical miles offshore.

Application Area 2 – Okerero

All common and coastal area commencing at Okorero which is located between the west bank of the Rangitaiki and the east bank of the Tarawera following the coastal line up to and including the Opihiwhanaungakore Urupa and the seaward boundary is 22km or 12 nautical miles offshore. The area defined includes the Rangitaiki and Tarawera Rivers their inlets and estuaries.

Application Area 3 – Opihiwhanaungakore

All common and coastal area commencing at Opihiwhanaungakore Urupa following the coastal line to and including Ohinemataroa (Whakatane River) its inlet, harbour and toka (sacred rocks) and continuing to follow the coastal line to Otaraowairere Bay and the seaward boundary is 22km or 12 nautical miles offshore.

Application Area 4 - Otaraowairere

All common and costal area commencing at Otaraowairere bay following the coastal line to and including the inlet, estuaries and habour of Ohiwa Harbour

Application Area 5 – Moutohora Island

All common and coastal area of Moutohora Island and 22 km or 12 nautical miles from the circumference of the Island (seawards boundary)

Application Area 6 – Nga Moutere o Rurima (including Tokata Island, Rurima Island and Moutuki Island).

All common and coastal area of the Rurima Islands and 22km or 12 nautical miles from the circumference.