

CIV-2017 -485-202,

IN THE HIGH COURTS OF NEW ZEALAND CIV-2017-
WELLINGTON REGISTRY

IN THE MATTER OF

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

AND IN THE MATTER OF

an application by Moka
Apiti for an order
recognising Customary
Marine Title and Protected
Customary Rights.

APPLICATION BY MOKA APITI

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

Dated 3 April 2017

Case Manager <i>Michaela</i>
Next Event: / /
03 APR 2017 <i>SR</i>
THE HIGH COURT WELLINGTON

- To:** The Registrar of the High Court at [Wellington];
- and to:** Waikato Regional Council and Otorohanga District Council with statutory functions in the application area)
- and to:** Local authorities (Department of Conservation, Department of Internal Affairs, Environment Protection Agency, MBIE, NZ Petroleum and Minerals) 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. Moka Apiti is applying 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/or protected customary rights of Ngāti Hikairo through our iwi authority Te Rūnanganui o Ngāti Hikairo.

Protected Customary Rights

2. Ngāti Hikairo ancestors utilised the common marine and coastal area of Kāwhia Harbour. Examples of our customary use include:
 - non-commercial fishing (utilising nets, hinaki and hand-lines to catch kuaka (snipe), kanae, kahawai, pioke, araara, patiki, tamure, mango, eels and other fish).
 - non-commercial seeding and harvesting of shellfish (including pipi, cockles, oysters, mussels, scallops, karahu, toheroa, tuatua, tuangi, pupu, paapaka)
 - activities related to spiritual practices (such as rahui);

- planting and cultivating plant species in CMCA wet margins (such as flax, tī kouka, pingao);
- gathering edible and aquatic plants;
- extracting non-nationalised minerals for non-commercial purposes;
- collecting hāngi stones for non-commercial purposes;
- collecting driftwood and other natural resources for non-commercial purposes;
- temporary camp-sites for ceremonial activities in the CMCA;
- tauranga waka.

The Applicant Group:

3. Te Rūnanganui o Ngāti Hikairo acts on behalf of the iwi Ngati Hikairo ki Kawhia. Refer to EXHIBIT A1 & A2.
4. Ngāti Hikairo has Hikairo II as its founding tupuna.
5. Ngāti Hikairo is an iwi in its own right.
6. Ngāti Hikairo is associated with the following marae: Waipapa, Mokai Kainga and Purekireki.
7. Ngāti Hikairo has an estimated population of 5000.
8. Members of Te Rūnanganui o Ngāti Hikairo whakapapa to Hikairo I, Hikairo II, Whakamarurangi, Rakataura III (Rakataura-a-Tokohei), Horotakere, Rakataura IV (Rakataura-a-Tūāhumāhina) who link to Kāwhia.
9. Moka Apiti is the Chair of Te Rūnanganui o Ngāti Hikairo, which is the body representing Ngāti Hikairo customary interests in and around Kāwhia.
10. Moka Apiti was authorised to make this application for and on behalf of Te Rūnanganui o Ngāti Hikairo on 22 February 2015. Minutes are provided as EXHIBIT A.

11. The matter was considered at the Hui-a-Tau for Te Rūnanganui o Ngāti Hikairo on 22 February 2015 at Waipapa Marae, Kāwhia. Notification of this meeting was electronic and pānui were distributed to the media and to a tribal data base on 22 January 2015, 2 February 2015 (Māori media) and 19 February 2015.

Area to which the application relates:

12. 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. the northward side by a line that extends from the coast abutting Raukumara including Karewa (Gannet Island) to the outer limits of the territorial sea; and
- d. on the southward side by a line that extends from the coast abutting Puremu [including Kawhia Harbour, Tiritirimatangi, Motu Kaiwhai, Ngātokakairiri, Pākūao islands] to the outer limits of the territorial sea.
- e. Refer to supporting maps EXHIBIT B & C for the area for which the application also relates.

13. The area includes the common marine and coastal area surrounding the following islands: Kārewa (Gannet Island), Tiritirimatangi, Motu Kaiwhai, Ngātokakairiri, Pākūao.

Grounds on which the protected customary rights order is sought:

14. The grounds on which this order is sought are that:

Ngāti Hikairo as represented by Te Rūnanganui o Ngāti Hikairo, being a coastal group has relied heavily on Tuangi, Hanikura, Whētiko, Koeti, Tītiko, Pipi, Kina papa, Tio, Tiopara, Tio repe, Kaikaikaroro,

- Kuku, Pūpū ataata, Pūpū pīataata, Pāpaka moke, kokotā, tupa, pīoke, pātiki, kanae, whai, piharau, tuna, īnanga, kokopū and wetland food stocks foraged by whānau in the estuaries and coastal margins; and
- a. Ngāti Hikairo fishermen sought the deep water fish snapper and kingfish that were not available around the inner shoreline; and
 - b. Members of Ngāti Hikairo also undertake the following activities in the common marine and coastal area: rongoā collecting, bird snaring, transport, transfer of knowledge of hapu marine culture, trade, communication, seasonal kaimoana exchange, access to gardens on land, bird snaring, tangihana, social interaction, manaakitanga and ope mara.
 - c. Ngāti Hikairo has undertaken these activities listed above since 1840 and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.

15. Te Rūnanganui o Ngāti Hikairo will provide more information once funding for research and legal representation is secured.

Grounds on which the customary marine title application is made:

16. The grounds on which this order is sought are that:

- a. Ngāti Hikairo has held the application area in accordance with tikanga since 1840.
- b. Ngāti Hikairo has exclusively used and occupied the application area from 1840 to the present day without substantial interruption.
- c. Ngāti Hikairo has maintained its customary use of the entirety of the coastline, foreshore and marine area within its iwi rohe since 1840.

- d. Ngāti Hikairo has title to a large portion of the land abutting the coastline, through Māori Freehold Land and general title
- e. Ngāti Hikairo continue to customarily fish, harvest kaimoana, and utilise the foreshore and marine for mahinga kai ceremonial purposes around the Kāwhia Aotea Taipure in accordance with tikanga.

17. Te Rūnanganui o Ngāti Hikairo will provide more information once funding for research and legal representation is secured.

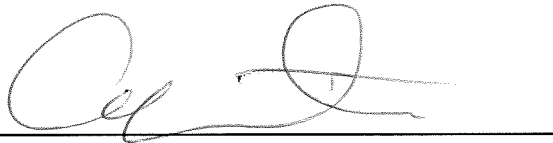
Contact Details:

6. The Chair for Te Rūnanganui o Ngāti Hikairo is:

Moka Apiti
36 Bancroft Terrace,
Newlands,
Wellington

7. This application relies on s51(1), s58, s98-113 of the Act.

Dated at Wellington on the 3 of April, 2017



Moka Apiti