

In the High Court of New Zealand  
Wellington Registry

CIV-2017-485-209

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**In the matter of** section 100 of the Marine and Coastal  
Area (Takutai Moana) Act 2011

**And in the matter of** an application by Ngā Hapū o Mokau  
ki Runga represented by the Mokau ki  
Runga Regional Management  
Committee seeking recognition orders  
under that Act

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**APPLICATION FOR RECOGNITION ORDERS**

Dated 3 April 2017

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Case Manager  
Next Event: / /  
- 3 APR 2017  
THE HIGH COURT  
WELLINGTON

Counsel: Tom Bennion / Lisa Black  
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**To:** The Registrar of the High Court at Wellington

**And to:** the Waikato Regional Council

**And to:** the Waitomo District Council

**And to:** the New Plymouth District Council

**And to:** the Taranaki Regional Council

**And to:** the Solicitor-General on behalf of the Attorney-General

**THIS DOCUMENT NOTIFIES YOU THAT:**

1. Ngā hapū o Mokau ki Runga represented by the Mokau ki Runga Regional Management Committee will on 3 April 2017 apply to the Court for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 relating to a particular area of the common marine and coastal area that is between centre of the Mokau River in the north and the Wai Pingao Stream in the south, bounded on the landward parts by the line of mean high-water springs (“te takutai moana o ngā hapū o Mokau ki Runga”) and extending generally to the outer limits of the territorial sea. This area is mapped and marked by the letters “M” and “W” in the attached Appendix A.
2. The orders sought are protected customary rights and customary marine title in te takutai moana o ngā hapū o Mokau ki Runga arising from:
  - 2.1. Permanent occupation of the land and use of the adjoining foreshore, seabed and seas from the landing of the Tainui waka; and since 1840 without substantial interruption;
  - 2.2. The taking of hapuka, kahawai, ararara (trevally), tamure (snapper), hapu (kingfish), hautere (jack mackerel), gurnard (kumukumu), shark (mangō), flounder (pātiki), bait fish (including inanga), stingray (whai), eels (tuna), lamprey (piharau) and other fish found in the takutai moana and river estuaries;
  - 2.3. The taking of kekeno (seals);
  - 2.4. The taking of seabirds;
  - 2.5. The taking of shellfish including oysters, snails (pūpū), kina, paua, crabs (pāpaka and kaunga) and koura (crayfish);

- 2.6. Taking of aquatic plants;
- 2.7. Navigation and passage over these areas in waka, and landing of waka;
- 2.8. Bathing;
- 2.9. Recreation;
- 2.10. Collection of sand, stones, driftwood, and detritus;
- 2.11. Designation of wāhi tapu;
- 2.12. Imposition of rāhui;
- 2.13. Allowing others to undertake activities;
- 2.14. And all ways of life and cultural practices associated with the above takings and uses including cultural practices founded in spiritual beliefs including the saying of karakia tawhito, exercise of kaitiakitanga and mana, naming of places in the sea and foreshore to specify fishing areas, reefs and people who had authority over them; and
- 2.15. All other customary uses of the common marine and coastal area between the Mokau River and the Wai Pingao Stream.

#### **DESCRIPTION OF APPLICANT GROUP**

- 3. Ngā hapū o Mokau ki Runga are hapū affiliating to Ngāti Maniapoto that have occupied the Mokau coast from the time of the landing of the Tainui waka. The hapū are listed in the affidavit of William Wetere.
- 4. They are represented today by the Mokau ki Runga Regional Management Committee, whose members are elected from the recognised Marae and Papakainga of the Mokau ki Runga Region. The Committee is constituted under section 8 of the Maniapoto Maori Trust Board Act 1988.

#### **GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT**

- 5. The applicant group seeks a protected customary rights recognition order on the grounds that their protected customary rights relating to their takutai

moana may be recognised by an order of the Court made on an application under section 100 of the Act.

6. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
7. The applicant group meets the requirements in s 51(1) of the Act because it:
  - 7.1. has exercised the rights before and since 1840;
  - 7.2. continues to exercise those rights in their rohe moana in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and
  - 7.3. is applying for rights that have not been extinguished as a matter of law.

#### **GROUND ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION ORDER IS SOUGHT**

8. The applicant group seeks a customary marine title recognition order on the grounds that their customary marine title relating to their takutai moana may be recognised by an order of the Court made on an application under s 100 of the Act.
9. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.
10. The applicant group meets the requirements in s 58 of the Act because it:
  - 10.1. holds their takutai moana in accordance with tikanga;
  - 10.2. has, in relation to their takutai moana exclusively used and occupied it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
  - 10.3. the customary marine title has not been extinguished as a matter of law.
11. In terms of matters that may be taken into account in determining whether the applicant group's customary marine title exists in their takutai moana:

- 11.1. the applicant group has owned land adjoining their takutai moana and have done so, without substantial interruption, from 1840 to the present day; and
- 11.2. the applicant group has exercised non-commercial customary fishing rights in their takutai moana o TRMM and have done so from 1840 to the present day.

#### **PERSON TO HOLD THE ORDERS**

12. The Mokau ki Runga Regional Management Committee will be the holders (in trust) of the orders.
13. William Wetere will be the person named in the orders.

#### **APPLICATION MADE IN RELIANCE**

14. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the affidavit of William Wetere which sets out the basis on which the applicant group is entitled to the recognition orders sought.

#### **CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER**

15. The contact address of the applicant and person named to hold the order is:

William Wetere  
Chair  
Mokau ki Runga Regional Management Committee  
14 Lyon St, Kihikihi  
021949267  
w.r.wetere@gmail.com

**Dated** at Wellington this 3 April 2017



**Thomas H Bennion / Lisa Black**

Counsel for ngā hapū o Mokau ki Runga and the Mokau ki Runga Regional Management Committee

This document is filed by Thomas Bennion, Solicitor for the Mokau ki Runga Regional Management Committee.

The address for service of the Applicant Group is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

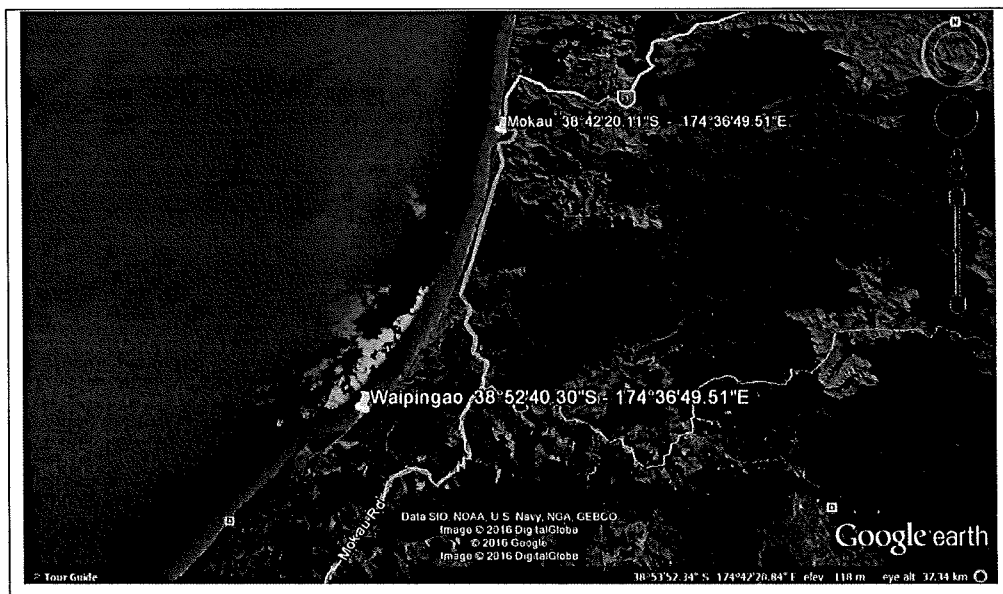
Documents for service on the above-named applicant group may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street,  
Wellington 6146; or

Transmitted to the solicitor by email to [tom@bennion.co.nz](mailto:tom@bennion.co.nz).

## APPENDIX A

### Te takutai moana o ngā hapū o Mokau ki Runga



1. The area is bounded
  - a. on the landward side, by the line of mean high-water springs; and
  - b. on the seaward side, by the outer limits of the territorial sea; and
2. includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991); and
3. includes the airspace above, and the water space (but not the water) above, the areas described in paragraphs (a) and (b); and
4. includes the subsoil, bedrock, and other matter under the areas described in paragraphs 1 and 2.