

CIV-2017-485-292

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

IN THE MATTER OF

The Marine and Coastal Area  
(Takutai Moana) Act 2011

AND

IN THE MATTER OF

An application by the  
Whakatohea Maori Trust Board  
for an order recognising  
Customary Marine Title and  
Protected Customary Rights.

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APPLICATION BY THE WHAKATOHEA MAORI TRUST BOARD AND  
FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND  
COASTAL AREA (TAKUTAI MOANA) ACT 2011

Dated 3<sup>rd</sup> April 2017

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HIGH DISTRICT COURT  
- 3 Apr 2017  
- Case Manager  
Next Event: ROTORUA  
- 4 APR 2017  
THE HIGH COURT  
WELLINGTON



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**To:** The Registrar of the High Court at Rotorua;  
**and to:** Bay of Plenty Regional Council;  
**and to:** Western Bay of Plenty District Council;  
**and to:** Tauranga City Council; and  
**and to:** The Solicitor General on behalf of the Attorney-General.

**This Application notifies you that:**

1. The Whakatohea Maori Trust Board (“the Applicant”) are 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 (“CMT”) and/or protected customary rights (“PCR”) of the applicants.
2. The applicant whakapapa to Muriwai, Tutāmure of the Matāatua waka, eastern Bay of Plenty.
3. The applicant has been given the authority to submit this application for and behalf of the Whakatohea whanau, hapu and iwi.

**Customary Marine Title and Protected Customary Rights:**

4. The Applicants ancestors utilised the common marine and coastal area (“CMCA”) for, but not limited to the following activities:
  - a. non-commercial fishing activities such as utilising nets, hinaki and hand-lines to catch kuaka (snipe), kanae, kahawai, pioke, araara, patiki, tamure, mango, eels and other traditional fish;
  - b. non-commercial seeding and harvesting of shellfish including titiko, pāpaka, tuatua, kokota, seaweed, hi ika, tamure, kohi mataitai, parera, tuangi and pupu;
  - c. activities related to spiritual practices such as rahui, karakia and waiata;
  - d. activities related to the transfer of traditional knowledge systems and matauranga maori through wananga;

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

**Area to Which the Application Relates:**

- 5. The area to which this application relates is the CMCA (as defined in s98 of the Act) is outlined in the affidavit of Dickie Farrah, Chief Executive Officer of the applicant.

**Grounds on which the PRC order is sought:**

- 6. The applicant are a coastal group whom have relied heavily on inshore fish and shellfish food sources and wetland food stocks sourced by whanau in the estuaries and the coastal margins;
- 7. The applicants fishermen sought the deep water fish that were not available around the inner shoreline; and
- 8. The applicants undertook and continue to undertake the following activities in the CMCA. These include, but are not limited to:
  - a. collection of rongoā materials;
  - b. bird snaring;
  - c. transport;
  - d. transfer of knowledge of hapu marine culture;
  - e. seasonal kaimoana exchange;
  - f. access to gardens on land;
  - g. customary rituals such as tangihana;
  - h. manaakitanga and opa mara (labour movement).

9. The Applicants have undertaken the activities described in paragraph 8 since 1830, albeit in some instances using modern equipment, and in accordance with tikanga.
10. The Applicants will provide more information once funding for research is secured.

**Grounds on which the CMT Application is made:**

11. The grounds on which this order is sought are that:
  - a. The applicants have held the application area in accordance with tikanga since 1830; and
  - b. Have exclusively used and occupied the application area from 1830 to the present day without substantial interruption.
12. The Applicants will provide more information once funding for research is secured.

**Contact Details:**

13. The appointed representative for the Applicants is:

Ms Dickie Farrar  
Chief Executive Officer  
Whakatohea Maori Trust Board  
122 St John Street  
P.O Box 207  
Opotiki

14. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of the Chief Executive Office of the Whakatohea Maori Trust Board, Ms Dickie Farrar.

Dated 3<sup>rd</sup> April 2017



Ashanti Neems

**Solicitor for the Whakatohea Maori Trust Board**

This document is filed by Ashanti Neems Solicitor for the firm Tu Pono Legal Limited. The address for service is:

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