

IN THE HIGH COURTS OF NEW ZEALAND CIV-2017-485-355
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 Pita
Tori Biddle and Karen
Stefanie Mokomoko and
the Uri (descendants) of
the Whakatohea
Rangatira Mokomoko.
for an order recognising
Customary Marine Title
and Protected Customary
Rights.

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1. **APPLICATION BY Pita Tori Biddle and Karen Stefanie
Mokomoko and the uri (descendants) of the Whakatohea
Rangatira Mokomoko**
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**FOR RECOGNITION ORDERS PURSUANT TO THE MARINE
AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

Dated 1st April 2017

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

MINISTRY OF JUSTICE
- 3 APR 2017 @ 1:13pm
TAURANGA

- To:** The Registrar of the High Court at Wellington;
- and to:** Opotiki District Council, Whakatane District Council, Bay of Plenty Regional Council
- and to:** Department of Conservation, Department of Internal Affairs, Environment Protection Agency, Ministry of Business, Innovation and Employment, NZ Petroleum and Minerals
- and to:** The Solicitor General on behalf of the Attorney-General.

This document notifies you that:

1. Pita Tori Biddle and Karen Stefanie Mokokoko will 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/or protected customary rights of te whānau me te uri a Mokokoko.

Protected Customary Rights

2. Te whānau a Mokokoko ancestors utilised the common marine and coastal area for:
 - 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 uri a Mokomoko whakapapa to the tipuna Tapairu Muriwai, Kahuki and Ruamoko and link to the application area. Pita Tori Biddle and Karen Stefanie Mokomoko were appointed to make this application for and on behalf of the te whānau a Mokomoko on 1st April 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. from Te Horo to Maraetotara to the outer limits of the territorial sea; and
 - d. from Maraetotara to Te Rangi to the outer limits of the territorial sea abutting the oceans to Rangitahua to Mauke in the Cook Islands including Moutohora (Whale) Island, Te Paepae o Aotea, Whakaari (White) Island, Uretara Island, Hokianga Island.
5. The area includes the common marine and coastal area surrounding the following islands Moutohora (Whale) Island, Te Paepae o Aotea, Whakaari (White) Island, Uretara Island, Hokianga Island

Grounds on which the protected customary rights order is sought:

6. The grounds on which this order is sought are that :
 - a. For the activities, uses and practices exercised and followed for preservation and maintenance of fully and undisturbed exercising of mana motuhake, rangatiratanga and kaitiakitanga of te whānau a Mokomoko according to our tikanga recognising Mana Atua, Mana Moana, Mana Tangata.
 - b. These Rights were recognised and protected with the signing of the Declaration of Independence 1835 and the signing of the covenant of Te Tiriti o Waitangi signed in Opotiki on 27th and 28th May 1840 by Whakatohea Rangatira – Tauatoro, TutakahiAo, Rangihaerepo, Whakiia, AkeAke, Aporotanga and Rangimatanuku.
 - c. These Rights were recognised and protected by active participants and signatories to 1) The Mataatua Declaration 2) Te Tawharautia o Nga Hapu o Whakatohea Resource Management 3) The United League of Nations Declaration on the Rights of Indigenous Peoples 4) Recognition as the First Human Rights Marae Marae Tikanga Tangata 5) Establishment of the Customary Fisheries Forum mai Nga Kuri a Wharei ki Tihirau
 - d. Te whānau a Mokomoko, being a coastal group has relied heavily on wetland food stocks foraged by whānau in the estuaries and coastal margins; and
 - e. Te whānau a Mokomoko fishermen sought the deep water fish that were not available around the inner shoreline; and
 - f. Te whānau a Mokomoko also undertakes the following activities in the common marine and coastal area: gathering kaimoana, fishing, 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.

- g. Te whānau a Mokomoko 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.
7. Te whānau a Mokomoko will provide 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 whānau a Mokomoko has held the application area in accordance with tikanga since 1840.
 - b. Te whānau a Mokomoko has exclusively used and occupied the application area from 1840 to the present day without substantial interruption.
9. Te whānau a Mokomoko will provide more information once funding for research and legal representation is secured.

Contact Details:

6. The Appointed Representative for te whānau a Mokomoko is:
Karen Stefanie Mokomoko
391 Welcome Bay Rd,
Tauranga 3112
7. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of Te whānau a Mokomoko kaumātua.

Dated at Tauranga n the 1st Day of April, 2017

K. Sell

[Contact Person]