

IN THE HIGH COURT OF NEW ZEALAND CIV-2017- 485-510
ROTORUA REGISTRY

**IN THE MATTER
OF**

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

**AND IN THE
MATTER OF**

an application by
TAREWA ROTA for
orders recognising
Customary Marine
Title and Protected
Customary Rights.

**APPLICATION BY TAREWA ROTA
FOR RECOGNITION ORDERS PURSUANT TO THE MARINE
AND COASTAL AREA (TAKUTAI MOANA) ACT 2011**

Dated: 3 April 2017

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Counsel Acting: Janet Mason

- To:** The Registrar of the High Court at Whangarei;
- and to:** Far North District Council, Whangarei City Council,
Northland Regional Council, and Auckland City Council;
- and to:** Department of Conservation and the Ministry for the
Environment;
- and to:** The Solicitor General on behalf of the Attorney-General.

This document notifies you that:

1. I, Tarewa Rota, apply to the High Court for orders pursuant to s 98 of the Act to recognise the customary marine title (“Title”) and protected customary rights (“PCRs”) of behalf of Mangahoutoa Trust, the Te Ururoa Trust and his hapū Te Uri o Te Aho and Te Tahawai (“the Applicants”) in the Marine and Coastal Area (“the MCA”) as defined in paragraph [4] below (“the Title Area”) in Mangonui Harbour, Whangarei, and Whangaroa and the adjacent coastline.

The Applicant Group:

2. The Applicants claim ownership of the Title Area based on the whakapapa set out in the Affidavit of Tarewa Rota.
3. I am authorised to make this application for and on behalf of the Applicants.

Area to which the application relates:

4. The area to which this Application relates is that area of the MCA, as defined in the Act,

5. The area to which this Application relates is the common marine and coastal area, as defined in section 9 of the Act (“the MCA”), 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; and
 - c. on the northward side, by a line that extends from the coast abutting the Northern end of the Mangonui Harbour, including any islands to the outer limits of the territorial sea; and
 - d. on the southward side, by a line that extends from the coast abutting Whangarei, including any islands to the outer limits of the territorial sea.

Grounds on which the customary marine title and protected customary rights are sought:

6. The grounds on which these orders are sought are that:
- e. the Applicants have held and exercised tino rangatiratanga over the Title Area in accordance with tikanga since before 1840; and
 - f. the Applicants have exclusively used and occupied the Title Area from 1840 to the present day without substantial interruption.
7. The purposes for which the activities, uses and practices (“the Practices”) were and are carried on, exercised and followed include:
- a. the exercise of rangatiratanga;
 - b. the exercise of kaitiakitanga, including:
 - i. protecting flora and fauna;
 - g. commercial and non-commercial fishing, including fishing for:
 - i. blue cod;
 - ii. moki;
 - iii. hoki;
 - iv. kawhai;
 - v. trevally;

- vi. John dory;
- vii. Teraki;
- viii. blue nose;
- ix. kingfish;
- x. trumpeter;
- xi. hapuka;
- xii. snapper;
- xiii. marlin;
- xiv. sailfish;
- xv. shark;
- xvi. toheroa;
- xvii. whale;
- xviii. ling sole;
- xix. flounder;
- xx. tuna;
- xxi. eels;
- xxii. hake;
- xxiii. groper;
- xxiv. mullet; and
- xxv. squid;

h. commercial and non-commercial harvesting of shellfish or kaimoana, including:

- i. scallops;
- ii. mussels;
- iii. oysters;
- iv. pipis;
- v. paua;
- vi. lobster;
- vii. crab;
- viii. tuatua;
- ix. cockles; and

- x. clams;
- i. activities related to spiritual practices;
- j. use as tauranga waka;
- k. gathering edible and aquatic plants, including:
 - i. flax;
 - ii. tī kouka;
 - iii. pingao; and
 - iv. seaweed;
- l. extraction of fossils, rocks and minerals, including:
 - i. stones;
 - ii. shingle;
 - iii. sand;
 - iv. pumice;
 - v. semi-precious stones; and
 - vi. other minerals;
- m. kauta or temporary camp-sites;
- n. toka ika or protected fishing grounds;
- o. associated Practices, including:
 - i. protecting kawau and other sea creatures;
 - ii. collecting shells;
 - iii. collecting drift wood;
 - iv. collecting whale and whale bones; and
 - v. taking flotsam, jetsam and langam;
- p. further uses and Practices to be the subject of evidence once funding for research and legal representation is secured.

8. The Applicants have undertaken these Practices since time immemorial and before 1840, and continue to undertake these Practices in the Title Area, albeit, in some instances using modern equipment, and in accordance with tikanga.

9. The Applicants will provide more information once funding for research and legal representation is secured.
10. The Applicants hold and exercise, in accordance with tikanga, tino rangatiratanga over the Title Area as particularised herein. The tikanga integral to the Applicants governing these Practices will be provided in the evidence from the Applicants to be given at a hearing once funding for research and legal representation is secured.
11. The orders for which the Applicants seek recognition are sought relying upon the Practices which:
- a. have been and continue to be carried on, exercised and followed in accordance with tikanga, in a substantially uninterrupted manner since 1840 in the Title Area;
 - b. if interrupted since 1840, then this has only been by unlawful interruption or interference, and in a substantially uninterrupted manner;
 - c. are not prohibited by any enactment or rule of law; and
 - d. have not been extinguished as a matter of law.
12. The Applicants respectfully seek leave to reserve the right to amend this Application, including; amending its nature and scope; and, by adding additional parties.

Contact Details:

13. The contact details for this Application are:

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14. This application relies on s 51(1), s 58, s 98-113 of the Act and the affidavit of TAREWA ROTA.

Dated at Rotorua on the 3rd day of April 2017

TAREWA ROTA