

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV-2017-485-510

IN THE MATTER OF

an application under the **Marine and Coastal
Area (Takutai Moana) Act 2011**

AND

IN THE MATTER OF

an application by **Tarewa Rota** on behalf of the
hapu of Ngāti Mokokohi, Te Tahawai, Te Uri-o-
Te-Aho, Ngāti Ruamahue and Ngāti Torehina for
orders recognising Customary Marine Title and
Protected Customary Rights.

Applicant

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

31 May 2018

Judicial Officer: Collins J
Next Event Date: 6 June 2018
Groups: B & C

KAHUI
LEGAL

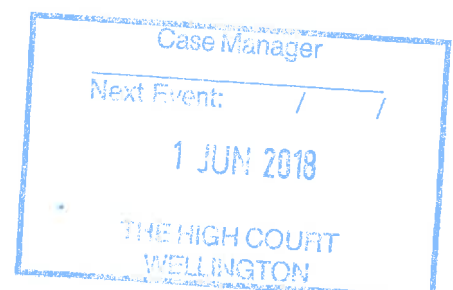
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Counsel: K Tahana / M Tukapua

WELLINGTON



MAY IT PLEASE THE COURT

BACKGROUND

1. The applicant has previously filed:
 - (a) an application by Tarewa Rota for orders recognising customary marine title and protected customary rights dated 3 April 2017; and
 - (b) amended application by Te Ururoa Trust for orders recognising Customary Marine Title and Protected Customary rights dated 14 August 2017.
2. The Attorney-General has filed an amended notice of appearance dated 4 April 2018 (**Amended Notice of Appearance**).
3. The applicant, Tarewa Rota (the **Applicant**), seeks leave to file this second amended application in response to the Amended Notice of Appearance.

SECOND AMENDED APPLICATION

4. The Applicant applies to the High Court for an order pursuant to section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**the Act**) to recognise the customary marine title and protected customary rights of the hapu of Ngāti Mokokohi, Te Tahawai, Te Uri-o-Te-Aho, Ngāti Ruamahue, Te Uri o Hua, Ngāti Rehia and Ngāti Torehina (the **Applicant Group**).
5. The grounds on which the orders are sought are as follows:

Introduction

6. The Applicant Group whakapapa to the hapu of Ngati Mokokohi, Te Tahawai, Te Uri-o-Te-Aho, Ngati Ruamahue and Ngati Torehina as set out in the affidavit of Tarewa Rota dated 6 April 2017 filed in support of this application.
7. The Applicant Group link to the coastal area as specified at paragraph 10 below (**Coastal Marine Area**).
8. Pursuant to section 98 of the Act, the Applicant on behalf of the Applicant Group applies to the High Court for recognition orders for customary marine title and protected customary rights.
9. The Applicant Group comprise hapu that continue to exercise mana whenua, mana moana and kaitiakitanga over the Coastal Marine Area.

10. Sections 94 and 98 of the Act confer on the High Court the jurisdiction to make an order recognising customary marine title, provided that the Applicant Group meets the tests for customary marine title set out under section 58 of the Act.

Orders Sought

11. The Applicant seeks orders from the High Court under section 98 of the Act:
 - (a) recognising that the Applicant Group holds customary marine title over the Coastal Marine Area as described in Annexure A; and
 - (b) for protected customary rights within the Coastal Marine Area comprising the protection of all customary activities exercised by the Applicant Group in accordance with tikanga.

The Applicant Group – section 101(c)

Hapu

12. The Applicant Group are the hapu known as Ngati Mokokohi, Te Tahawai, Te Uri-o-Te-Aho, Ngati Ruamahue and Ngati Torehina.

The Specified Area – section 101(d)

Coastal Marine Area

13. The specified area to which this application relates is identified on the map which is annexed and marked “A” (**Application Area**).

Grounds on which the Application is made – section 101(e)

14. On behalf of the Applicant Group, the Applicant submits that the necessary requirements for customary marine title (section 58 of the Act) and protected customary rights (section 51 of the Act) are satisfied, in particular:
 - (a) in relation to customary marine title:
 - (i) the Applicant Group holds the Application Area in accordance with tikanga (section 58(1)(a));
 - (ii) the Applicant Group has, in relation to the Application Area exclusively used and occupied the Application Area from 1840 to the present day without substantial interruption (section 58(1)(b)); and

- (iii) the Applicant Group exercises non-commercial customary fishing rights in the Application Area and have done so from 1840 to the present day (section 59(1)(a)(ii)), and
- (b) in relation to protected customary rights:
 - (i) the protected customary rights have been exercised since 1840 (section 51(1)(a));
 - (ii) the protected customary rights continue to be exercised in the Application Area in accordance with tikanga by the Applicant Group, whether it continues to be exercised in exactly the same or a similar way, or evolves over time (section 51(1)(b)); and
 - (iii) the protected customary rights are not extinguished as a matter of law (section 51(1)(c)); and
- (c) as set out in the affidavit of Tarewa Rota dated 6 April 2017 filed in support of this application.

The Holder of the Order – section 101(f)-(g)

- 15. The Applicant applies to be the holder of the order on behalf of the Applicant Group.
- 16. The contact details of the Applicant are:

Tarewa Rota
c/- 42 Froude Street
Whakarewarewa
Rotorua

Affidavit in Support – section 101(h)

- 17. This application is supported by the affidavit of Tarewa Rota dated 26 April 2017.
- 18. The Applicant reserves his ability to:
 - (a) file further evidence in support of this second amended application; and
 - (b) amend this second amended application.

DATED at Wellington this 31st day of May 2018.



K Tahana / M Tukapua
Counsel for the Applicant

TO: The Registrar of the High Court of New Zealand

AND TO: The Attorney-General, interested parties and applicants within
Groups B and C.

"A"



Lat: 35.201306
Long: 174.068756