

IN THE HIGH COURT OF NEW ZEALAND
NAPIER REGISTRY

CIV-2017- 485 - 227

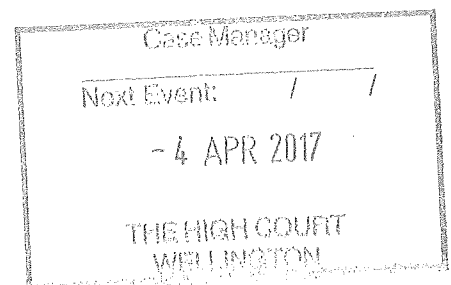
IN THE MATTER OF an application under the Marine
and Coastal Area (Takutai
Moana) Act 2011

BETWEEN ENID RATAHI-PRYOR,
STANLEY RATAHI and
POUROTO NGAROPO for and
on behalf of, **NGĀTI
HIKAKINO, NGĀI TE
RANGIHOUHIRI II and TE
TĀWERA**
Applicants

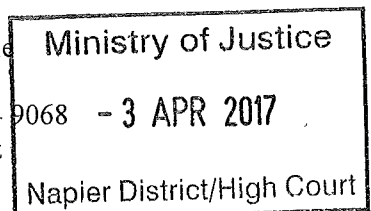
AND The Attorney-General
Respondent

**Application under
section 101 Marine and Coastal Area (Takutai Moana) Act 2011**

3 April 2017



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**Application under
section 101 Marine and Coastal Area (Takutai Moana) Act 2011**

To: Registrar, High Court Wellington

And to: The Respondents by its solicitors

Take notice that the applicant on behalf of **NGĀTI HIKAKINO, NGĀI TE RANGIHOUHIRI II** and **TE TĀWERA**, will apply to the High Court for the following orders:

- A. Under section 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”), recognising a protected customary right (a “Protected Customary Rights Order”); and
- B. Under section 98 of the Act, recognising customary marine title (a “Customary Marine Title Order”); and
- C. Under section 78 of the Act, the recognition of waahi tapu protection rights in relation to the Customary Marine Title Order:

As described herein:

1. Pursuant to section 101(b) of the Act, the description of the protected customary right sought in the Protected Customary Rights Order is the right to exercise all aspects of *te tino rangatiratanga* in relation to the “**Ngāti Hikakino, Ngāi Te Rangihouhiri II and Te Tāwera, takutai moana area**”:

Particulars

- a. “*Te tino rangatiratanga*” means the right and obligation to protect, preserve, control, regulate, use, develop, transmit, and make and enforce laws and customs in relation to all taonga;
- b. “*Tāonga*” means biological and genetic resources in indigenous and/or taonga species, the environment, and matauranga Maori (including te reo and tikanga Māori).

2. Pursuant to section 101(c) of the Act, the applicant group is, **Ngāti Hikakino, Ngāi Te Rangihouhiri II and Te Tāwera hapū** of **Ngāti Awa**, being those descendants of Irawharo, Hikakino, Te Rangihouhiri II and Te Rama-apakura II who affiliate to the whānau, marae and hapū of, **Ngāti Hikakino, Ngāi Te Rangihouhiri and Te Tāwera** being **Puawairua Marae, Te Rangihouhiri II Marae and Iramoko Marae**.

3. Pursuant to section 101(d) of the Act, the **takutai moana** area to which the application relates is that area that 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 which includes the beds of rivers, the airspace and the water space above, and the subsoil, bedrock and other matter including natural resources within the takutai moana area, as follows:

- To the north, at the Waitahanui Stream;
- To the south, at Ōkorero, Te Putere and Te Matatā pā;
- And including the islands known as Rūrīma, the river mouth at Tarawera and the river mouth at Rangitāiki;

AND a corresponding acknowledgement that there may be traditional areas of shared interest with neighbouring whānau and hapū on the boundaries of the takutai moana area as follows:

- a. To the north, shared with Ngāti Makino at Ōtamarakau Marae; and Ngāti Rangitīhi at Rangitīhi Marae; and Tūwharetoa at Oniao and Umutahi Marae;
- b. To the south, shared with Ngāi Taiwhakaea II - Te Patutātahi hapū at Te Pāroa (Taiwhakaea II) Marae.

Upon the Grounds

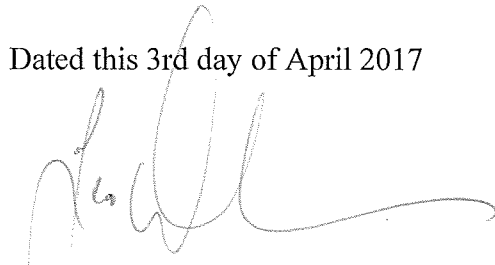
4. The right to exercise all aspects of *te tino rangatiratanga* is a right that:
 - a. Has been exercised prior to, and since, 1840; and
 - b. Continues to be exercised in the takutai moana area in accordance with tikanga by the applicant group; and
 - c. Is not extinguished as a matter of law.
5. The applicant group holds the takutai moana area in accordance with tikanga;
6. The applicant group has, in relation to the takutai moana area:
 - a. Exclusively used and occupied it from 1840 to the present day without substantial interruption; and/or
 - b. Received it through a customary transfer between or among members of the applicant group in accordance with tikanga (as defined in section 58(3) of the Act);
7. The applicant group owns land abutting the takutai moana area (as defined in section 59 of the Act);
8. The applicant group exercise non-commercial customary fishing rights in the takutai moana area and have done so from before 1840 to the present day;
9. Within the takutai moana area, there are waahi tapu and waahi tapu areas with which the applicant group have connection in accordance with tikanga and the group may require restrictions on access to protect the waahi tapu and the waahi tapu areas, with the location of these waahi tapu and waahi tapu areas and the nature of the proposed restrictions to be the subject of dialogue within the applicant group, and with the wider community before the nature of the waahi tapu conditions sought under section 79 of the Act are particularised.

10. The person to be the holder of the Recognition Orders as the representative of the applicant group shall be the chairperson at any particular time of the three marae, Puawairua, Te Rangihouhiri II and Iramoko, or such person/entity as is determined to be the appropriate holder of the Recognition Orders following a mandate process in accordance with the tikanga of the applicant hapū.

And upon the grounds identified in the affidavits filed in support of this application.

This application relies on section 101 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Dated this 3rd day of April 2017



Leo H Watson
Counsel for the Applicant Group

This application is filed on behalf of the applicant by LEO HAYES WATSON, Barrister and Solicitor, of Napier. The address for service of the abovenamed applicant is at the office of the solicitor at 342 Gloucester Street, Taradale, Napier.

Documents for service on the abovenamed applicant may be left at that address or may be:

- a) Posted to the solicitor at 342 Gloucester Street, Taradale, Napier 4112; or
- b) Transmitted to the solicitor by email in PDF version to leo@leowatson.co.nz with the original document to follow by post.