

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

CIV-2011-485-794

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

BETWEEN Pauline Tangiora for and on
behalf of
RONGOMAIWAHINE IWI
Applicant

AND The Attorney-General
Respondent

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

9 March 2015

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

To: Registrar, High Court Wellington

And to: The Respondents by their solicitors

Take notice that the applicant on behalf of **RONGOMAIWAHINE IWI** 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 o Rongomaiwahine Iwi* in relation to the “**Rongomaiwahine Iwi takutai moana area**”;

Particulars

- a. “*Te tino rangatiratanga o Rongomaiwahine Iwi*” 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. “*Taonga*” means biological and genetic resources in indigenous and/or taonga species, the environment, and matauranga Maori (including te reo and tikanga Maori).

2. Pursuant to section 101(c) of the Act, the applicant group is Rongomaiwahine Iwi, being those descendants of Rongomaiwahine II who affiliate to the whanau, marae and hapu of Rongomaiwahine Iwi;
3. Pursuant to section 101(d) of the Act, the **Rongomaiwahine 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 Rongomaiwahine takutai moana area, as follows:
 - To the north, at Paritu;
 - To the south, the mouth of the Nuhaka River;
 - And including Te Mahia Peninsula (including but not limited to Mahanga, Oraka, Te Mahia, Whangawehi, Horokaka, Nukutaurua, Tawapata, Ahuriri, Te Houra (Waikawa or Portland Island), Kinikini, Te Hoe, Moata, Mokotahi, Opoutama, Waikokopu, Aureti);

AND a corresponding acknowledgement that there are traditional areas of shared interest with neighbouring whanau and hapu on the boundaries of the Rongomaiwahine takutai moana area as depicted in the pink shaded areas on the map marked "A" annexed to this application.

Upon the Grounds

4. The right to exercise all aspects of *te tino rangatiratanga o Rongomaiwahine Iwi* is a right that:
 - a. Has been exercised prior to, and since, 1840; and
 - b. Continues to be exercised in the Rongomaiwahine 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 Rongomaiwahine Iwi holds the Rongomaiwahine takutai moana area in accordance with tikanga;
6. The applicant group Rongomaiwahine Iwi has, in relation to the Rongomaiwahine 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 Rongomaiwahine Iwi owns land abutting the Rongomaiwahine takutai moana area (as defined in section 59 of the Act);
8. The applicant group Rongomaiwahine Iwi exercise non-commercial customary fishing rights in the Rongomaiwahine takutai moana area and have done so from before 1840 to the present day;
9. Within the Rongomaiwahine 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 finalised.

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 Mahia Maori Committee.

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 9th day of March 2015



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 Level 2, Kel Tremain House, 19 The Parade, Napier.

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

- a) Posted to the solicitor at PO Box 1035 Napier 4110; or
- b) Transmitted to the solicitor by email in PDF version to leowatson@paradise.net.nz with the original document to follow by post.