

CIV-2017-404-555

IN THE HIGH COURTS OF NEW ZEALAND
AUCKLAND REGISTRY

CIV-2017-

IN THE MATTER OF

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

AND IN THE MATTER OF

an application by NICOLA
MACDONALD of
WHANANAKI AND AOTEA
for an order recognising
Customary Marine Title
and Protected Customary
Rights

Applicant

AND

The Attorney General in
right of the Crown

NICOLA MACDONALD
APPLICATION
FOR RECOGNITION ORDERS PURSUANT TO THE MARINE AND
COASTAL AREA (TAKUTAI MOANA) ACT 2011

DATED 3rd APRIL 2017

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HIGH COURT
• Fw-119/17 •
• 03 APR 2017 •
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AUCKLAND

CB

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To: The Registrar of the High Court at Auckland;

and to: The Solicitor General on behalf of the Attorney-General.

This document notifies you that:

1. NICOLA MACDONALD 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 protected customary rights of TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA.

Protected Customary Rights

2. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA ancestors utilised the common marine and coastal area for fishing, kaimoana gathering, transport, rongoa collecting, communicating hapu matauranga, bird snaring, firewood, stones, aquatic plants, fishing tuna;

The Applicant Group:

3. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA whakapapa to RANGI WHAKAAHU, PU MARI PAAMA, RAIMA TE MARU, PUKEKAWA MAKI, MIHIWATARA MAKI, PU KIRI FERGUSON, HEENI TE MAMAE FERGUSON, TAUHOU KUIA AERIPO – TE PIRIHI and link to the application area WHANANAKI AND AOTEA. NICOLA MACDONALD was appointed to make this application for and on behalf of TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA in February 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 Helena Bay merging into Mimiwhangata and Pareparea Bays of the main island and other islands in other adjacent blocks;
 - b. on the seaward side by the outer limits of the territorial sea;
 - c. thus then Helena Bay into Mimiwhangata (north east point) out to Poor Knights (east point from Mimiwhangata) through Whananaki North and South across to (south east point) thence to Aotea and Hauturu Islands including the islands to the outer limits of the territorial sea and
- 5 The area includes the common marine and coastal area surrounding the following islands: Tawhiti Rahi and Aorangi known as Poor Knights, Mokohinau Islands.

Grounds on which the protected customary rights order is sought:

6 The grounds on which this order is sought are that :

- a. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA being a coastal group has relied heavily on fishing, kaimoana gathering, aquatic plants, fishing tuna and wetland food stocks, rongoa collecting, pa harakeke collecting for utensil and adornment use, stones, shells; and
 - b. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA fishermen sought deep water fish hapuka, trevally, gurnard that were not available around the inner shoreline; and
 - c. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA also undertakes the following activities in the common marine and coastal area: transport of goods and people, trade among the hapu and to the general public, collecting resources from outer islands that are not available on our mainland i.e. trees and shrubs for rongoa, adornment and building materials.
 - d. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA has undertaken these activities since prior to 1840 and continues to undertake these activities in the application area.
7. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA will deliver 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 WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA has held the application area in accordance with tikanga since before 1840
 - b. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA has exclusively used and occupied the application area prior to 1840 to the present day without substantial interruption.
9. TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA will

deliver more information once funding for research and legal representation is secured.

Contact Details:

10. NICOLA MACDONALD for TE WHANAU O HONE PAPITA RAUA KO REWA ATARIA PAAMA is:

c/- Charl Hirschfeld
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11. This application relies on s51(1), s58, s98-113 of the Act and the affidavit of NICOLA MACDONALD, kaumātua.

Dated at Auckland on the 3rd day of APRIL 2017



NICOLA MACDONALD