

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

No: CIV: 2017.485.247

UNDER THE

Marine and Coastal Area
(Takutai Moana) Act 2011,
Sections 98 and 100

AND

IN THE MATTER

of an application by **Roger
Tichborne** on behalf of **Nga
Hapū o Tokomaru Akau**, for
orders recognising Customary
Marine Title and Protected
Customary Rights

Originating Application on Notice

For Recognition Orders Pursuant to the Marine and Coastal Area (Takutai
Moana) Act 2011

Dated: 3 April 2017

Case Manager

Next Event: / /

- 3 APR 2017

THE HIGH COURT
WELLINGTON

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**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY** **No: CIV:**

To the Registrar of the High Court at **Wellington**

and

To the **Gisborne District Council** and the **Solicitor General** on behalf of the
Attorney General

This document notifies you that —

1. The Applicant **Roger Tu Lewis Tichborne** (“Roger Tichborne or “the Applicant”) will, on 3 April 2017, apply to the Court for a recognition order under s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 (“the Act”).
2. The Applicant will seek a recognition order for Customary Marine Title (“CMT”) under the requirements of s 58 of the Act.
3. The Applicant will seek to include recognition of wāhi tapu and wāhi tapu areas in a CMT order under s 78 of the Act.
4. The Applicant will seek a recognition order for Protected Customary Rights under the requirements of section 51(1) of the Act.

The Applicant Group

5. The Applicant Group is Nga Hapū o Tokomaru Akau (“NHOTA”).
6. NHOTA is comprised of two neighbouring hapū – Te Whānau a Te Aotawarirangi (“Te Ao”) and Te Whānau a Ruataupare (“Ruataupare”).
7. Te Ao and Ruataupare are located in Tokomaru Bay on the East Coast of the North Island of New Zealand.
8. They are widely recognised as the only holders of mana whenua and mana moana over the Tokomaru Bay area.

Representative of Applicant Group

9. NHOTA prefers, at this stage, not to name an individual person or entity to be the holder of any order that may be awarded.
10. NHOTA's preference is to establish a Trust entity to hold any order awarded by way of this application.

Contact Details

11. Roger Tichborne is the contact person for the Applicant Group. The contact details for Roger Tichborne are as follows:
 - i. Telephone number: 0223362887
 - ii. Mailing Address: 31 Ruakura Road, Hamilton 3216
 - iii. Email: roger.tichborne1@gmail.com

Specified Area to which Application Relates

12. The common marine and coastal area to which this application relates is in and around Tokomaru Bay - from Ngutu O Ngore (Orange Bay) in the north, to Mawhai Point in the south, and extending out 12 nautical miles from each point along the coastline ("the specified area").
13. A map of the specified area is attached to the **attached** affidavit of Margrette Ryland-Daigle.

Grounds for CMT Application

14. NHOTA holds the specified area in accordance with tikanga.
15. NHOTA, has exclusively used and occupied the specified area from 1840 until the present day.
16. Title to the specified area has not been extinguished as a matter of law.
17. NHOTA has lands abutting the specified area and have held these lands since 1840 until the present day.

18. NHOTA has practiced non-commercial customary fishing rights in the specified area since 1840 until the present day.

Recognition of Wāhi Tapu

19. Various wāhi tapu and wāhi tapu areas, of importance to Te Ao and Ruataupare, are located within the specified area.
20. If this application for a CMT recognition order is successful, NHOTA will seek to include recognition of these wāhi tapu as part of the order under s 78 of the Act.
21. The grounds upon which recognition of wāhi tapu are sought include:
 - a. The connection that the hapū of NHOTA has with the various wāhi tapu and wāhi tapu areas; and
 - b. That NHOTA requires prohibitions and/or restrictions on access to protect these wāhi tapu and wāhi tapu areas.
22. As the wāhi tapu within the specified area are extensive, the relevant wāhi tapu and wāhi tapu areas are outlined and explained in the **attached** affidavit of Margrette Ryland-Daigle.

Description of PCRs

Kaitiakitanga

23. Kaitiakitanga involves guardianship, conservation, education and protection measures and practices.
24. NHOTA practices kaitiakitanga in respect to the specified area.
25. Access to all parts of the specified area is a key requirement of NHOTA's continued practice of kaitiakitanga.

Tending to Fish Nurseries

26. NHOTA preserve, protect and tend to a number of fish nurseries/hatcheries within the specified area.

Grounds for PCR

27. The PCRs described above have;
- a. Been exercised since 1840;
 - b. Continue to be exercised by members of Te Popoto in/at the specified area in accordance with tikanga; and
 - c. Are not extinguished as a matter of law.

Affidavits in Support of Application

28. The following persons provide affidavits in support of this application:
- a. Margrette Ryland-Daigle; and
 - b. Roger Tu Lewis Tichborne

Memorandum

This document is filed by **Darrell Naden**, Solicitor for the Applicant, of the firm Tamaki Legal Limited. The address for service of the Applicant Group is at the offices of Tamaki Legal Limited, AMI Building, 15 Osterley Way, Auckland, 2104, New Zealand.

Documents for service on the Applicant may be left at that address for service or may be –

- posted to the Solicitors at PO Box 75-517, Manurewa, Auckland, 2243, New Zealand; or
- emailed to the Solicitor at darrell@tamakilegal.com

Date: 03/04/2017


Darrell Naden
Solicitor for Applicant