

IN THE HIGH COURT OF NEW ZEALAND
WHANGAREI REGISTRY

CIV-2017- 485-286

IN THE MATTER OF

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

AND IN THE MATTER OF

an application by
Patuharakeke Te Iwi Trust
Board for an order
recognising Protected
Customary Rights

APPLICATION BY PATUHARAKEKE TE IWI TRUST BOARD
FOR RECOGNITION ORDER PURSUANT TO THE MARINE AND COASTAL AREA
(TAKUTAI MOANA) ACT 2011

Dated 3 April 2017



DIXON & CO LAWYERS

PO Box 10 081

Dominion Road

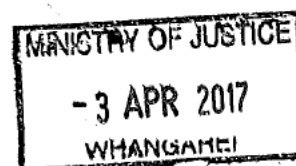
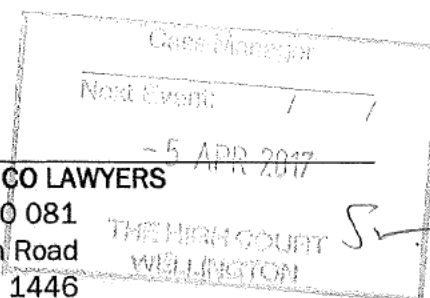
Auckland 1446

Telephone: [REDACTED]

Facsimile: [REDACTED]

Filed by Kelly Dixon

Email: [REDACTED]



To: The Registrar of the High Court at Whangarei;

and to: The Whangarei District Council;

and to: The Department of Conservation, the Department of Internal Affairs, the Environmental Protection Authority, the Ministry of Business, Innovation and Employment, New Zealand Petroleum and Minerals;

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

This document notifies you that:

1. The applicant, Patuharakeke Te Iwi Trust Board ("PTB"), will on 3 April 2016 apply to the High Court for an order pursuant to s 98 of the Marine and Coastal Area (Takutai Moana) Act 2011 ("the Act") to recognise the protected customary rights of Patuharakeke.

Protected Customary Rights

2. Patuharakeke ancestors utilised the common marine and coastal area for a number of customary activities, which include the following:
 - a. non-commercial fishing, including utilising nets and hand lines to catch tamure (snapper), patiki (flounder), mango (shark), inanga (whitebait), kumukumu (red gurnard), pioke (dogfish), paraoa (whale), kahawai, tuna (eel), kanae (grey eyed mullet), wheke (octopus), whai (stingray), aua (yellow eyed mullet), parore (bream);
 - b. non-commercial seeding and harvesting of shellfish, including pipi (kokota), tio (rock oysters), koura (freshwater crayfish), kuku

(mussels), tipa (scallops), kina, paua, tuatua (cockles), pupu, papaka (crabs);

- c. activities related to spiritual practices, such as rāhui;
- d. planting and cultivating plant species in the application area, including harakeke, pirita (supplejack) and pingao;
- e. gathering edible and aquatic plants such as watercress;
- f. collecting hāngi stones for non-commercial purposes;
- g. collecting driftwood and other natural resources for non-commercial purposes;
- h. temporary camp-sites for ceremonial activities in the application area;
- i. tauranga waka.

The Applicant Group:

- 3. Patuharakeke whakapapa to the eponymous ancestors Urikuri and Te Taotahi.
- 4. PTB was appointed to make this application for and on behalf of the hapu of Patuharakeke after a PTB trust hui held at Takahiwai on 26 February 2017, and a Hui-ā-hapū held at Takahiwai on 5 March 2017.
- 5. PTB through its Trust Deed is mandated to represent the hapu Patuharakeke on matters that promote and partake in charitable causes, including to protect and utilise all land, water and sea based resources of Patuharakeke.

Area to which the application relates:

6. The area to which this application relates is the common marine and coastal area (as defined in s 9 of the Act) that is bounded:
- a. on the landward side by the line of mean high-water springs;
 - b. on the harbour side by the outer limits of Patuharakeke's rohe moana recognised by the Ministry for Primary Industries ("the rohe moana");
 - c. on the seaward side by the outer limits of the rohe moana;
 - d. on the westward side by a line that extends from the centre of the bridge on Takahiwai Road crossing the Takahiwai Inlet (35°50'18.384"S, 174°25'22.3968"E) northeast to the outer limits of the rohe moana (35°48'48"S, 174°27'06"E).
 - e. on the southward side by a line that extends from the coast abutting the south eastern corner of the rohe moana (36°02'41.64"S, 174°34'17.76"E) to the outer limits of the rohe moana.

Grounds on which the protected customary rights order is sought:

7. The grounds on which this order is sought are that :
- a. Patuharakeke being a coastal group has relied heavily on tamure (snapper), patiki (flounder), mango (shark), inanga (whitebait), kumukumu (red gurnard), pioke (dogfish), paraoa (whale), kahawai, tuna (eel), kanae (grey eyed mullet), wheke (octopus), whai (stingray), aua (yellow eyed mullet), parore (bream), pipi (kokota), tio (rock oysters), koura (freshwater crayfish), kuku (mussels), tipa (scallops), kina, paua, tuatua (cockles), pupu,

papaka (crabs) and wetland food stocks foraged by whānau in the estuaries and coastal margins; and

- b. Patuharakeke fishermen sought the deep water fish that were not available around the inner shoreline; and
 - c. Patuharakeke also undertakes the following activities in the common marine and coastal area:
 - i. spiritual practices such as rāhui, baptisms, and designating waahi tapu;
 - ii. planting and cultivating plant species such as harakeke, raupo, muka and watercress;
 - iii. weaving and rongoa;
 - iv. collecting hangi stones for non-commercial purposes;
 - v. collecting driftwood and other natural resources for non-commercial purposes;
 - vi. temporary camp sites for ceremonial activities; and
 - vii. tauranga waka.
 - d. Patuharakeke has undertaken these activities listed above mai rā anō (since time immemorial) and continues to undertake these activities in the application area, albeit in some instances using modern equipment, and in accordance with tikanga.
8. Patuharakeke will provide more information once funding for research and legal representation is secured.

Contact Details:

9. The appointed representative for Patuharakeke Te Iwi is:
- Patuharakeke Te Iwi Trust Board

PO Box 557

Whangarei

10. Should an recognition order be made by the Court, the nominated order holder for Patuharakeke Te Iwi is:

Jared Pitman (Chairperson of the Patuharakeke Te Iwi Trust Board)

PO Box 557

Whangarei

(09) 437 7462

admin@patuharakeke.maori.nz

11. This application relies on ss 51(1), 58, and 98-113 of the Act and the affidavit of members of Patuharakeke Te Iwi and also Patuharakeke Te Iwi Trust Board.

Date: 3 April 2017



Counsel for the applicant

This document is filed by KELLY MAREE HANNAH DIXON and ALISHA SUZANNE CASTLE, solicitors for the applicant. The address for service of the applicant is 2A Kings Road, Mt Roskill, Auckland.

Documents for service on the filing party may be left at that address for service or may be:

- (a) Posted to the solicitor at PO Box 10 081 Dominion Road, Auckland; or
- (b) Transmitted to the solicitor by fax to [REDACTED] or
- (c) Emailed to the solicitor at [REDACTED]