

H0194

27 April 2009

Minister of Fisheries

APPOINTMENT OF TANGATA KAITIAKI—PATUHARAKEKE, NGĀTI TU, NGĀTI KAHU AND TE PARAWHAU

Purpose

1 The Patuharakeke Te Iwi Trust Board has resolved the only objection to its Tangata Kaitiaki notification. As a result of the resolution process, the Ministry of Fisheries (the Ministry) recommends you confirm the appointment of those now nominated as Tangata Kaitiaki for Patuharakeke, Ngāti Tu, Ngāti Kahu and Te Parawhau.

Executive Summary

2 The Patuharakeke Te Iwi Trust Board was nominated as Tangata Kaitiaki in May 2004. The notification covered an area within Whangarei Harbour and Bream Bay.

3 One submission was received objecting to the notification. The submitter, representing three hapū and 14 marae, claims “*traditional customary ownership rights to the area*”. Although repeated attempts over a lengthy period to meet with the objector failed, the Patuharakeke Trust Board has finally reached an agreement with the objector.

4 The Ministry is now able to recommend the appointment of Tangata Kaitiaki for Patuharakeke, Ngāti Tu, Ngāti Kahu and Te Parawhau. This will enable the hapū to manage customary food-gathering under the customary fishing regulations within Whangarei Harbour and Bream Bay.

Regulatory Framework

5 The Fisheries (Kaimoana Customary Fishing) Regulations 1998 (the Regulations) enable tangata whenua to manage customary food-gathering within the rohe moana where they are tangata whenua.

6 To achieve this outcome, tangata whenua are required to notify the Minister of Fisheries (the Minister) their area of authority and the names of the proposed Tangata Kaitiaki/Tiaki (Tangata Kaitaki). Notification details must be published in newspapers circulating in the locality of the proposed customary food-gathering area/rohe moana. Under r 7 of the Regulations, submissions are invited from authorised representatives of:

- the tangata whenua on whose behalf the notification is made: r 7(2)(a)
- the iwi, rūnanga, tribal trust board, or other organisation representing the relevant iwi interest: r 7(2)(b)
- any other whānau, hapū, or iwi claiming manawhenua manamoana for customary food-gathering in any part of the proposed rohe moana: r 7(2)(c).

7 If, under r 8(1) of the Regulations, the Minister considers any submission indicates a dispute regarding:

- who is tangata whenua
- who should be the Tangata Kaitiaki
- the boundaries of the area/rohe moana concerned,

the Minister must recommend that parties to the dispute agree on a resolution process consistent with Tikanga Māori: r 8(2) of the Regulations.

8 However, under r 9 of the Regulations, the Minister must confirm the appointment of those notified as Tangata Kaitiaki if satisfied:

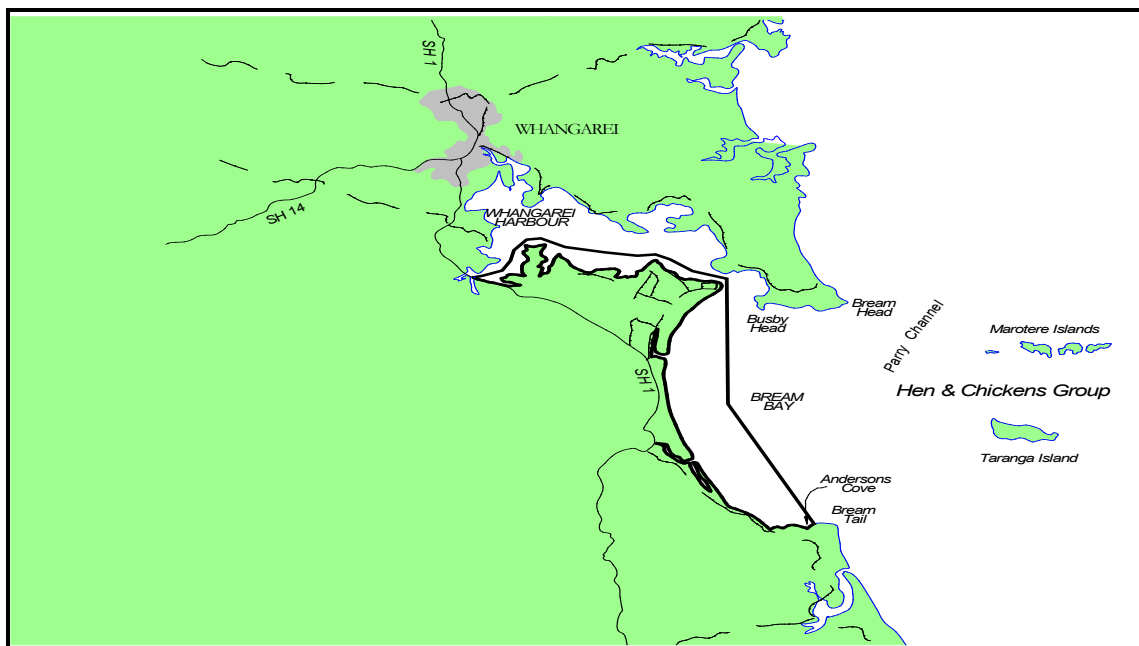
- no submission in opposition to a notification or a competing notification has been received: r 9(1)(a) of the Regulations
- **a dispute resolution process has been concluded (if an objection to a notification had been received) and all disputes have been resolved through that process:** r 9(1)(b) of the Regulations (emphasis added).

Notification of Tangata Kaitiaki by the Patuharakeke Trust Board

Receipt and details of notification

9 The Patuharakeke Te Iwi Trust Board (the Trust Board) notified its Tangata Kaitiaki in May 2004. The Trust Board advised the Ministry “*that the Takahiwai Marae Trustees is the tangata whenua representative body with the authority to appoint kaitiaki for the rohe moana of Patuharakeke hapu and to whom the kaitiaki are responsible for the proper administration of the Regulations*”. Further “*that the Patuharakeke Te Iwi Trust Board be appointed as kaitiaki to authorise the customary fishing within the rohe moana of Patuharakeke Hapu*”.

10 The Trust Board advised its rohe moana is “*from Te Kopuawaiwaha Titahi at the north-west end of Te Rerenga Paraoa; and then along the coastline in an easterly direction along the southern coast of Te Rerenga Paraoa to Koutu and then south to the eastern end of Andersons Cove on the northern side of Bream Tail*”; hereinafter referred to as ‘within Whangarei Harbour and Bream Bay’. An outline of the proposed area follows.



11 Patuharakeke is a Northland hapū grouping of Ngāpuhi, Ngātiwai and Ngāti Whātua whose area of interest is located at South Whangarei. Patuharakeke has approximately 5,000 members and an ancestral marae at Takahiwai. The Trust Board is the business unit for the Takahiwai Marae, and manages housing, health and treaty claims for the hapū.

Publication of details and call for submissions

12 Details of the notification were published in the Northern Advocate and the Whangarei Leader throughout August and September 2004. The Ministry also advised several neighbouring entities of the notification and the opportunity for them to make submissions.¹

13 Through the advertising process and by direct contact with neighbouring hapū and iwi, submissions in response to the notification were invited from authorised representatives of i) Patuharakeke / Takahiwai Marae Trustees; ii) any iwi, rūnanga, tribal trust board, or other organisation representing the relevant iwi interest; and iii) any other whānau, hapū or iwi claiming manawhenua manamoana in respect of customary food-gathering in any part of the area notified by Patuharakeke / Takahiwai Marae Trustees. The legislative requirements of the Regulations, specifically r 6 and r 7(1), were met through the advertising process and call for submissions.

14 Only one submission was received by the deadline of 6 October 2004. The submission, from the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board, was provided to the Patuharakeke Trust Board.

¹ Ngāpuhi, Ngāti Hine, Ngāti Kahu o Torongare, Ngāti Kahu/Te Parawhau, Ngāti Korora, Ngāti Whātua, Ngāti Wai and Te Uri o Hau.

Submission

15 Waimarie Bruce, the Co-ordinator/Cultural Advisor for Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board, states that their Trust Board is the authorised organisation which represents Ngāti Tu, Ngāti Kahu and Te Parawhau. She states the submission is prepared on their behalf and marae within and around Whangarei Harbour to Mangakahia.

16 The submitter claims the Takahiwai Marae Trustees have not consulted with Ngāti Tu, Ngāti Kahu or Te Parawhau. Further, she claims the three hapū have *“traditional customary ownership rights to the area over which Takahiwai Marae Trustees nominated Patuharakeke Te Iwi Trust Board as the Kaitiakithese rights were recognised in accordance with Tikanga (Māori custom and usages). Today these rights are still recognised by neighbouring hapū and are uncontroversial”*.

Dispute Resolution

17 Details of the dispute resolution process followed by the Trust Board are attached as Appendix I. As outlined, the objection to the notification was eventually resolved.

Outcome / Conclusion

18 Since December 2005, and for over two years, the Trust Board attempted to engage with the submitter who had objected to its Tangata Kaitiaki notification. The submitter, despite repeated attempts by the hapū, failed to engage with Patuharakeke.

19 However, with assistance from the Ministry, resolution of the submitter’s objections has been achieved. This has been confirmed in letters by each entity to the Ministry. The advice is deemed to have been provided under r 8 (5)(b) of the Regulations, which, after the conclusion of a dispute resolution process, provides for the tangata whenua, who made the notification, to advise in writing the names of the Tangata Kaitiaki.

20 Accordingly, the Ministry believes the appointment of Tangata Kaitiaki for Patuharakeke, Ngāti Tu, Ngāti Kahu and Te Parawhau should be confirmed as resolution with the sole submitter has been achieved.

Confirmation of Tangata Kaitiaki

21 Under r 9(1) of the Regulations, you must confirm the appointment of Tangata Kaitiaki if satisfied no submission in opposition to a notification has been received. Where opposing submissions are received, these must be resolved through a dispute resolution process.

22 While an opposing submission was received on the notification of Tangata Kaitiaki by the Trust Board, the objections raised by the submitter have been resolved.

23 Also, under r 9(1) of the Regulations, before confirming the appointment of Tangata Kaitiaki, you must be satisfied no competing notification for a general customary food-gathering area/rohe moana has been received. The Ministry confirms no competing notifications have been received for the area within Whangarei Harbour and Bream Bay. The Ministry notes that while the Ngatiwai Trust Board notified its Tangata Kaitiaki over an area that takes in Whangarei Harbour and Bream Bay, the notification is not deemed to be competing as neither party objected to each other’s notification.

24 Given the requirements for confirming Tangata Kaitiaki appointments have been met, the Ministry recommends you confirm, under r 9(1) of the Regulations, the following as Tangata Kaitiaki for Patuharakeke, Ngāti Tu, Ngāti Kahu and Te Parawhau:

- Teni Solomon and Ricky Solomon for Ngāti Tu
- Waimarie Bruce and Wiremu Pohe for Ngāti Kahu
- Tapa George and Damon George for Te Parawhau
- Hanna Carrington, Crete Pirihi Milner, David Milner, Reece Newton, Grant Pirihi, Greg Smith and Shane Watson for Patuharakeke.

25 The area/rohe moana for the appointments is within Whangarei Harbour and Bream Bay.

26 Letters addressed to those who have been nominated as Tangata Kaitiaki, the Trust Board and the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board are enclosed for your signature.

Publication of appointment details

27 Having confirmed the appointment of Tangata Kaitiaki, r 9(2) of the Regulations requires appointment details to be notified in the *New Zealand Gazette* and publicised in newspapers circulating within the locality of the customary food-gathering area/rohe moana. Notices must name the Tangata Kaitiaki, describe the boundaries of the customary food-gathering area, and confirm the tangata whenua of the area/rohe moana to which the appointments relate. The notices must be placed within 20 working-days of appointments being confirmed.

28 Therefore, once you have confirmed the appointment of Tangata Kaitiaki for Patuharakeke, Ngāti Tu, Ngāti Kahu and Te Parawhau and signed the attached letters, the Ministry will publish the required details in the *New Zealand Gazette*, the Northern Advocate and the Whangarei Leader.

Recommendations

29 The Ministry recommends you:

- a) **Agree** the legislative requirements for confirming the appointment of Tangata Kaitiaki notified by the Patuharakeke Te Iwi Trust Board have been met
- b) **Confirm**, under r 9(1) of the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the appointment of Waimarie Bruce, Hanna Carrington, Damon George, Tapa George, Crete Pirihi Milner, David Milner, Reece Newton, Grant Pirihi, Wiremu Pohe, Greg Smith, Teni Solomon, Ricky Solomon and Shane Watson, as Tangata Kaitiaki
- c) **Sign** the attached letters to the Tangata Kaitiaki, the Patuharakeke Te Iwi Trust Board and the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board
- d) **Note** the area/rohe moana for the appointments is within Whangarei Harbour and Bream Bay
- e) **Note** the tangata whenua for the area/rohe moana is to be confirmed as Patuharakeke
- f) **Note**, once the appointments have been confirmed, the Ministry will give effect to your decisions in the *New Zealand Gazette* and publish details of the appointments in newspapers that circulate in the area described above.

Raymond Necklen
for Chief Executive
Ministry of Fisheries

APPROVED / NOT APPROVED

Hon Phil Heatley
Minister of Fisheries

/ / 2009

Encl

Notification of Tangata Kaitiaki by the Patuharakeke Te Iwi Trust Board

Dispute Resolution Process

1 The Patuharakeke Rohe Moana Committee (the Committee) was established in November 2005, under the Patuharakeke Trust Board, with a mandate from the Takahiwai Marae Trustees to manage “*the rohe moana application process with the Ministry of Fisheries*”². The process included resolving the objection to its Tangata Kaitiaki notification from the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board.

2 The Committee has provided the Ministry with a synopsis of its repeated attempts to meet with the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board. Phone messages were left for Waimarie Bruce and correspondence sent to the submitter during the period December 2005 to October 2006. As well, an invitation was extended to the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board, through Ms Bruce, to participate in a hui at Rangiora Marae, Takahiwai on 4 November 2006. No responses were received by the Committee.

3 In an attempt to make progress, the Committee initiated contact with the Ngaratunua Marae Trust³ in November 2006. The marae is considered to be the mātua marae of Ngāti Kahu o Torongare/Te Parawhau Hapū. The Committee proposed a resolution to the impasse, which was discussed by the Ngaratunua Marae Trust on 2 December 2006. The resolution, which was formulated at the hui held at Rangiora Marae, was “*That we acknowledge our whanaungatanga with Ngāti Kahu o Torongare/Te Parawhau Hapū. We offer to set aside a seat for them on our Rohe Moana Committee in anticipation of co-management*”.

4 The Ministry sought clarification and further information from the Committee, including requesting a copy of the minutes of the above meeting. As a result of discussions with the Chairman of the Committee, David Milner, the Committee renewed attempts to make contact with the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board between March 2007 and March 2008. Again, no response was received.

5 The Committee, through Mr Milner, later advised the Ministry that contact had finally been made with Waimarie Bruce. Both parties agreed to meet on Wednesday, 28 May 2008. As the meeting was due to start, Ms Bruce postponed the meeting to the following day. The rescheduled meeting, however, never eventuated as Ms Bruce failed to show up.

6 While the Committee subsequently sought to have the objection ‘discounted’ and the Tangata Kaitiaki appointed, the Ministry attempted to make contact with Waimarie Bruce. Contact was made late in 2008, and the Ministry was instrumental in bringing the two parties together.

² Taken from a letter to the Ngaratunua Marae Trust from the Patuharakeke Trust Board dated 8 November 2005.

³ Ngaratunua is one of the marae mentioned in the submission from the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board.

7 As a result, Waimarie Bruce, of behalf of the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board, in a letter to the Ministry dated 19 December 2008 advises *“the issues pertaining to our submission are resolved subject to the following conditions:*

1. *That the following people be appointed to represent the interests of Ngāti Kahu, Te Parawhau and Ngāti Tu Hapu:*
 - *Ngāti Kahu: Waimarie Bruce & Willy Pohe*
 - *Te Parawhau: Tapa George & Damon George*
 - *Ngāti Tu: Teni Solomon & Ricky Solomon*
2. *That Ngāti Kahu, Te Parawhau and Ngāti Tu are included in management planning for the rohe”.*

8 The letter continues *“In return, Ngāti Kahu o Torongare/Te Parawhau Hapu/Iwi Trust Board agrees to include your tangata kaitiaki in any future notification of our tangata kaitiaki and rohe moana, this will include your participation in any management planning for the rohe. We look forward to working collaboratively with you and your tangata kaitiaki for the enhancement of the rohe moana”.*

Response from Patuharakeke Trust Board

9 The Trust Board responds in a letter to the Ministry as follows: *“Patuharakeke Te Iwi Trust Board (Inc) accepts Waimarie Bruce’s proposal resolving her objection to Takakiwai marae-Patuharakeke Te Iwi Trust Board’s notification to appoint Tangata Kaitiaki. The Board, as the Notifying Authority, is hopeful of a successful relationship with the Tangata Kaitiaki caring for the marine life”.* The letter, dated 20 February 2009, is signed by the Board’s Secretary, Tangiwai Mere Appleton Te Keepa.

10 In follow-up e-mails from the Secretary, Ms Te Keepa and the Chairman of the Committee, the names of those who are to be appointed as Tangata Kaitiaki are confirmed. They are Hanna Carrington, Crete Pirihi Milner, David Milner, Reece Newton, Grant Pirihi, Greg Smith and Shane Watson (representing Patuharakeke), as well as the six people nominated by the Ngāti Kahu o Torongare/Te Parawhau Hapū/Iwi Trust Board—refer paragraph 7 above.