

In the High Court of New Zealand
Wellington Registry

CIV-2017-485-254

In the matter of the Marine and Coastal Area (Takutai
Moana) Act 2011

And in the matter of an application by Te Patutokotoko
represented by Christopher Henare
Tahana, Edward (Fred) Clark, Hayden
Tūroa, and Novena McGuckin seeking
recognition orders under that Act

APPLICATION FOR RECOGNITION ORDERS

Dated 3 April 2017



Counsel: Tom Bennion / Lisa Black
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To: The Registrar of the High Court at Wellington

And to: Horizons Regional Council

And to: Whanganui District Council

And to: Rangitikei District Council

And to: Manawatu District Council

And to: Horowhenua District Council

And to: the Solicitor-General on behalf of the Attorney-General

THIS DOCUMENT NOTIFIES YOU THAT:

1. Te Patutokotoko, represented by Christopher Henare Tahana, Edward (Fred) Clark, Hayden Tūroa, and Novena McGuckin, will on 3 April 2017 apply to the Court for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 relating to a particular area of the common marine and coastal area that is between the Kai Iwi River in the north and Lake Papaitonga in the south, bounded on the landward parts by the line of mean high-water springs ("the application area") and extending generally to the outer limits of the territorial sea. This area is mapped with the northern and southern extents marked in the attached Appendix A.
2. The orders sought are protected customary rights and customary marine title in the application area arising from:
 - 2.1. Permanent use of the adjoining foreshore, seabed and seas since 1840 without substantial interruption;
 - 2.2. The taking of gurnard, kahawai, tamure, patiki, and tarakihi and other ika found in the takutai moana and river estuaries;
 - 2.3. The taking of seabirds and their eggs;
 - 2.4. The taking of shellfish including pipi, kuku, toheroa, tuatua, papaka, koura kina and paua;
 - 2.5. Taking of aquatic plants;
 - 2.6. Bathing;
 - 2.7. Recreation;

- 2.8. Collection of sand, stones, driftwood, and detritus;
- 2.9. Designation of wāhi tapu
- 2.10. Imposition of rāhui;
- 2.11. And all ways of life and cultural practices associated with the above takings and uses including cultural practices founded in spiritual beliefs including the saying of karakia tawhito, exercise of kaitiakitanga and mana, naming of places in the sea and foreshore to specify fishing areas, reefs and people who had authority over them;
- 2.12. And all other customary uses of the common marine and coastal area between the Kai Iwi Stream and Lake Papaitonga.

DESCRIPTION OF APPLICANT GROUP

3. Te Patutokotoko is comprised of its constituent hapū, being Ngāti Uenuku, Ngāti Ruakopiri, Ngāti Tukaiaora, Ngāti Tumanuka, Ngāti Hinataro, Ngāti Atamira, Ngāti Maringi, Ngāti Tara, Ngāti Haaua, Ngāti Pare, Ngāti Hinekura, Ngāti Tauengaarero, Ngāti Rangi ki Manganui a te Ao, Ngāti Tamakana, and Ngāti Tuhoro.

GROUND ON WHICH THE PROTECTED CUSTOMARY RIGHTS RECOGNITION ORDER IS SOUGHT

4. Te Patutokotoko seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to the application area may be recognised by an order of the Court made on an application under section 100 of the Act.
5. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for protected customary rights meets the requirements of s 51(1) of the Act.
6. The Applicant Group meets the requirements in s 51(1) of the Act because it:
 - 6.1. has exercised the rights before and since 1840;
 - 6.2. continues to exercise those rights in the application area in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and

6.3. is applying for rights that have not been extinguished as a matter of law.

GROUND ON WHICH THE CUSTOMARY MARINE TITLE RECOGNITION ORDER IS SOUGHT

7. Te Patutokotoko seeks a customary marine title recognition order on the grounds that its customary marine title relating to the application area may be recognised by an order of the Court made on an application under s 100 of the Act.
8. Pursuant to s 98 of the Act, the Court may make a recognition order if it is satisfied that the application for customary marine title meets the requirements of s 58 of the Act.
9. The Applicant Group meets the requirements in s 58 of the Act because it:
 - 9.1. holds the application area in accordance with tikanga;
 - 9.2. has, in relation to the application area, exclusively used and occupied part of it from 1840 to the present without substantial interruption to its exclusive use and occupation; and
 - 9.3. the customary marine title has not been extinguished as a matter of law.
10. In terms of matters that may be taken into account in determining whether the Applicant Group's customary marine title exists the application area:
 - 10.1. the Applicant Group have owned land adjoining the application area and have done so, without substantial interruption, from 1840 to the present day; and
 - 10.2. the Applicant Group have exercised non-commercial customary fishing rights in the application area and have done so from 1840 to the present day.

PERSON TO HOLD THE ORDERS

11. Te Patutokotoko will be the holder (in trust) of the orders.

APPLICATION MADE IN RELIANCE

12. This application is made in reliance on sections 51(1), 58, 59, 94, 98, 100, and 101 of the Marine and Coastal Area (Takutai Moana) Act 2011 and the affidavit of Christopher Henare Tahana which sets out in full the basis on which Te Patutokotoko are entitled to the recognition orders sought.

CONTACT DETAILS OF THE APPLICANT AND PERSON NAMED TO HOLD THE ORDER

13. The contact address of the Applicant and person named to hold the order is:

Christopher Tahana
Te Patutokotoko
69 Scannell St
Taupo 3330
020 4051 8439
patutokotoko1@gmail.com

Dated at Wellington this 3 April 2017



Thomas H Bennion / Lisa Black

Counsel for Te Patutokotoko

This document is filed by Thomas Bennion, Solicitor for Te Patutokotoko.

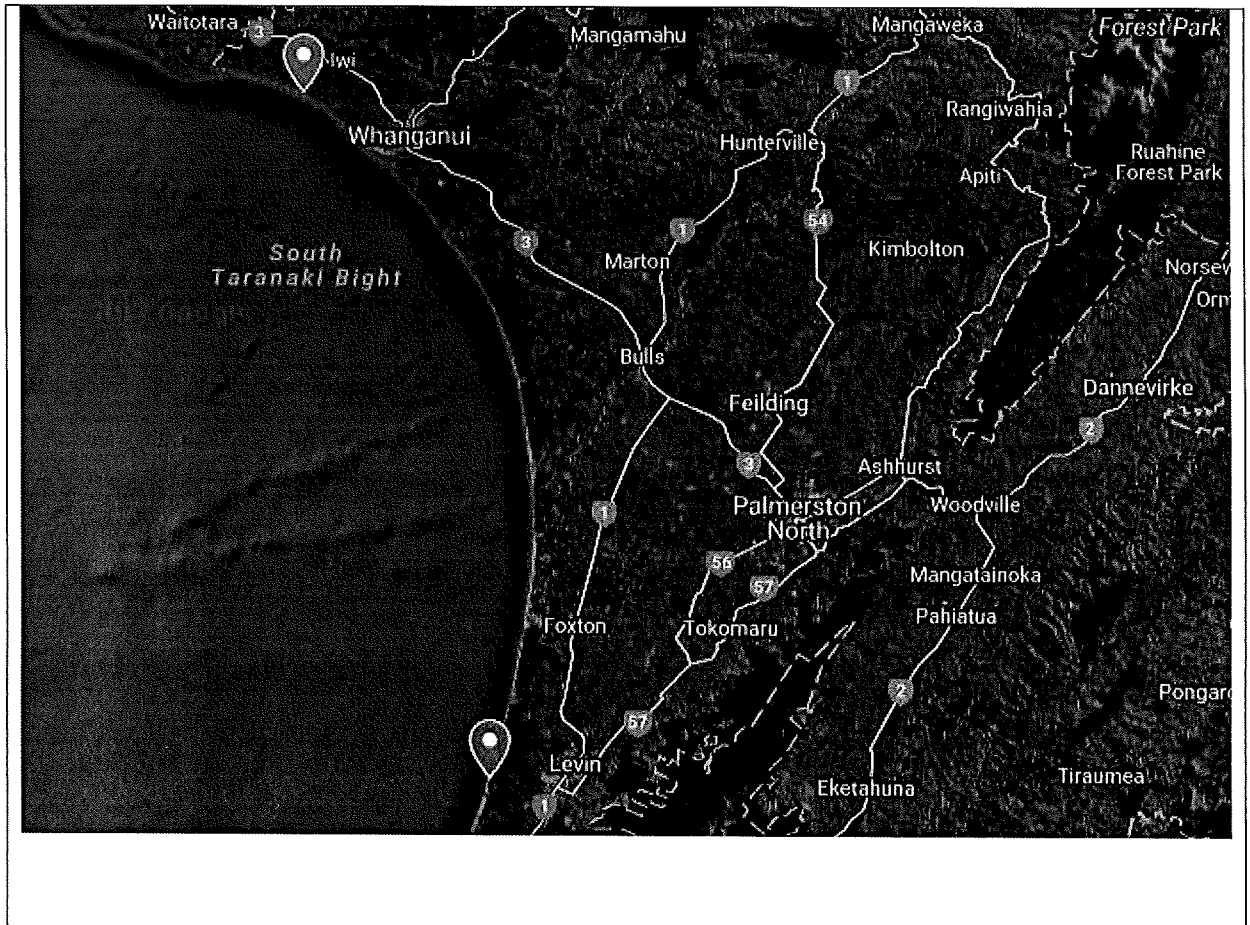
The address for service of Te Patutokotoko is at the offices of Bennion Law, First Floor, 181 Cuba Street, Wellington.

Documents for service on the above-named applicant may be left at that address for service or may be:

Posted to the solicitor at PO Box 25-433, Featherston Street, Wellington 6146; or

Transmitted to the solicitor by email to tom@bennion.co.nz.

APPENDIX A
Te Patutokotoko Application Area



1. The area 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
2. includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991); and
3. includes the airspace above, and the water space (but not the water) above, the areas described in paragraphs (a) and (b); and
4. includes the subsoil, bedrock, and other matter under the areas described in paragraphs 1 and 2.