

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CIV-2017- 485-276

IN THE MATTER OF

the Marine and Coastal
Area (Takutai Moana) Act
2011

AND
IN THE MATTER OF

an application by Arapeta
Hamilton for and on behalf
of Ngāti Rongo o
Mahurangi seeking orders
recognising protected
customary rights under the
Act

APPLICATION FOR RECOGNITION ORDERS

Dated this 31st day of March 2017

Case Manager

Annette Sykes & Co
Barristers & Solicitors

Next Event: 8 - Unit 1 Marguerita Street
Rotorua, 3010

- 4 APR 2017 Phone: 07-460-0433

Fax: 07-460-0434

Rotorua 31/4/17

WELLINGTON
Counsel Acting: Annette Sykes / Jordan Bartlett

Email: asykes@annettesykes.com / jordan@annettesykes.com

- To:** the Registrar of the High Court at Auckland
- And to:** Auckland Council
- And to:** Department of Conservation
- And to:** the Solicitor-General on behalf of the Attorney-General

THIS DOCUMENT NOTIFIES YOU THAT:

1. Mr Arapeta Hamilton, (“the applicant”) for and on behalf of Ngāti Rongo o Mahurangi (“the Applicant”), will on 30 March 2017 apply to the Court for orders:
 - a) relating to the particular area of the common marine and coastal area in Te Moana a Toi te Huatahi, specifically in the Mahurangi and Pūhoi areas, that is from Snells beach then in an easterly direction to Te Kawau Island then in a north-easterly direction to Hauturu Island taking all the coast out to Motutapu Rangitoto, then down to Oneoneroa located at Awataha. This area is mapped and marked approximately in the map attached **Appendix “A”**.
2. The orders sought are protected customary rights in rohe moana o Ngāti Rongo o Mahurangi arising from:
 - a) permanent occupation of the land and use of the adjoining foreshore before 1840 without substantial interruption;
 - b) hapū fishing (including hand-line, net, long-line and spear);
 - c) diving (including free and bottle);
 - d) the taking of shellfish;
 - e) the taking of hapūka, kahawai, ararara (trevally), tamure (snapper), hapū (kingfish), hautere (jack mackerel), gurnard (kumukumu), shark (mangō), flounder (pātiki), bait fish (including inanga), stingray (whai), eels (tuna), lamprey (piharau) and other fish found in the takutai moana and river estuaries;

- f) the taking of seabirds;
- g) the taking of shellfish including oysters, snails (pūpū), kina, paua and koura (crayfish);
- h) the taking of aquatic plants (including karengo and native spinach);
- i) the planting and cultivating plant species in CMCA wet margins (including flax, tī kouka, pingao, wiwi, kowharatanga, Ngaio, manuka, pohutukawa, koromiko);
- j) extracting non-nationalised minerals for non-commercial purposes (including red ochre, clays, ironsand and rocks);
- k) collecting traditional materials that enhance, preserve and protect the applicant and applicant group cultural practices, including collecting mud, plants, perished mammals, seabirds, rocks, shells, and other materials from its wetlands, estuarine margins and the sea;
- l) allowing others to undertake activities; and
- m) 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, imposition of rāhui, imposition of wāhi tapu, exercise of kaitiakitanga and mana, transfer of knowledge of hapū marine culture, trade, communication, seasonal kaimoana exchange, access to gardens on land, tangihana, manaakitanga and naming of places in the sea and foreshore to specify fishing areas, reefs and people who had authority over them.

THE APPLICANT GROUP

3. The applicant, Arapeta Hamilton is mandated to speak for Ngāti Rongo o Mahurangi. This authority was tabled and the motion carried by majority at a hui-ā-hapū at Te Kāretu on 19 October 2014. This is further outlined in the affidavit of Arapeta Hamilton in support of this application.

4. Ngāti Rongo o Mahurangi is a small hapū of Te Kawerau that lived at Pūhoi in the Mahurangi District.
5. The applicant group has occupied and continue to exercise customary rights in the Mahurangi and Pūhoi areas from the time of their ancestors, Ngā Whetu and Moerangaranga. The hapū are: Ngāti Rongo, Te Kawerau and Ngāti Whatua.
6. The activities outlined above in paragraph one are carried out by the applicant on a needs bases to feed whānau particularly when there are occasions that cater for hui mate, hui ā hapū, hui mārena, hui hura kokahu and wānanga.
7. The Applicant wishes to acknowledge other hapū that have overlapping customary interests in the Mahurangi and Pūhoi area. These hapū include: Ngāti Mareariki, Ngāti Kā, Ngāti Kahu and Ngāti Poataniwha.

**GROUNDS ON WHICH THE PROTECTED CUSTOMARY RIGHTS
 RECOGNITION ORDER IS SOUGHT**

8. Ngāti Rongo o Mahurangi, through the applicant, seeks a protected customary rights recognition order on the grounds that its protected customary rights relating to rohe moana o Ngāti Rongo o Mahurangi may be recognised by an order of the Court made on an application under section 100 of the Act.
9. 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.
10. The applicant group meets the requirements in s 51(1) of the Act because it:
 - a) has exercised the rights before and since 1840;
 - b) continues to exercise those rights in te rohe moana o Ngāti Rongo o Mahurangi in accordance with tikanga in either exactly the same or a similar way, or in a way that has evolved over time; and

- c) is applying for rights that have not been extinguished as a matter of law.

APPLICATION MADE IN RELIANCE

- 11. 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 Arapeta Hamilton which sets out in full, the basis on which the applicant group are entitled to the recognition orders sought.

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

- 12. The contact address of the applicant and person named to hold the order is:

Arapeta Hamilton
8 Flaxdale Street, Birkdale
North Shore
Auckland 0626


- 13. The contact telephone number is 0220128419.
- 14. The contact email is arapetahamilton@gmail.com.

ORDERS SOUGHT


- 15. The applicant respectfully seeks the following orders:
 - a) recognising that Ngāti Rongo o Mahurangi hapū, has protected customary rights over the Mahurangi and Pūhoi areas;
 - b) setting out that recognition be made in the name of Ngāti Rongo o Mahurangi hapū; and

- c) costs in the event that this application is opposed by any party.

DATED at Rotorua this 31st day of March 2017



Annette Sykes



Jordan Bartlett

Counsel for Applicant

This **STATEMENT OF CLAIM** is filed by **ANNETTE SYKES** and **JORDAN BARTLETT**, counsel for the Applicant, of the firm Annette Sykes & Co.

The address for service on the abovenamed Applicant is the offices of Annette Sykes & Co. 8 – Unit 1 Marguerita Street, Rotorua 3010.

Documents for service on the abovenamed Claimant may be left at the address for service or may be:-

- a) posted to the solicitor at Annette Sykes & Co., PO Box 734, Rotorua 2010;
- or
- b) transmitted to the solicitor by fax on (07) 460 0434.

“A”

