

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TE WHANGANUI-A-TARA ROHE**

**CIV-2017-485-247**

UNDER

The Marine and Coastal Area  
(Takutai Moana) Act 2011

IN THE MATTER OF

An application by Roger  
Tichborne, on behalf of Ngā  
Hapū O Tokomaru Ākau, for  
orders recognising Customary  
Marine Title and Protected  
Customary Rights

Appearances: D C F Naden and M Yogakumar for Applicant  
L O’Gorman QC and R Siciliano for Te Whānau a Ruataupare  
B Lyall for Ngā Whānau o Hauiti (abiding)  
C Barnett and G Melvin for Attorney-General  
B Scott and S Cvitanovich for Seafood Industry

Minute No.2: 2 September 2022

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**MINUTE (No.2) OF CULL J  
[Regarding Pūkenga and Translator Appointments]**

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[1] Counsels’ joint memorandum regarding Pūkenga has been referred to me this morning, expressing their joint concern that Dr Hape appears to have been appointed a Pūkenga outside the provisions of s 99(1)(b) of the Marine and Coastal Area (Takutai Moana) Act 2011.

[2] The request for Dr Hape, to assist the Court, was to provide te reo interpretation and as she has done in previous MACA hearings, to give advice to the Court on tikanga protocols, including the Māori tikanga formalities, such as the waiata, karakia and mihi. There had been no formal process put in place to appoint Dr Hape as a Pūkenga and the reference in the Registrar’s email to Counsel of 24 August was an error. As

you will be aware, Mr Hurst has recently taken over as Registrar for MACA hearings and this was a misunderstanding of the process required and was a clerical error. For that, the Court apologises to Counsel for any unnecessary upset or concern.

[3] I can confirm that Dr Hape has not been sent questions, as has been done with Dr Joseph, and the intention is that she perform the same assistance role to the Court by way of translation from english to te reo and te reo to english and guide the Court in observing the appropriate tikanga and protocols in the course of the hearing.

[4] If I may reassure Counsel, I do not intend to receive any advice on the evidence or on the issues before the Court, unless such advice is given in open Court and parties are able to cross-examine such a witness on that advice or evidence.

[5] If Counsel or the parties wish to raise any issues following receipt of this Minute, a telephone conference can be arranged for the end of today or alternatively, the matter be dealt with further after the pōwhiri and before the commencement of the hearing on Monday 5 September.

**Cull J**