

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

CIV-2017-404-563

UNDER the Marine and Coastal Area
(Takutai Moana) Act 2022

IN THE MATTER OF strike out applicants under the Marine and
Coastal Area (Takutai Moana) Act 2011

BETWEEN Te Rūnanga o Ngāti Whātua
Applicant

AND Joseph (Hohepa) Robert Kingi on behalf of
Ngāpuhi nui tonu, Ngāti Rahiri, Ngāti Awa,
Ngā Tahuhu, and Ngaitewake (CIV-2017-
404-537)
First Respondent

AND Rihari Dargaville on behalf of Ngaitewake
(CIV-2017-404-558)
Second Respondent

Hearing: 31 October – 1 November 2022

Appearances: M Chen and C J Saunders for Applicant
T J Castle for Respondents
G S G Erskine for Interested Party
G L Melvin for Interested party

Minute: 2 November 2022

MINUTE OF HARVEY J

Solicitors:
Kemps Weir Lawyers, Auckland
Capital Chambers, Wellington
Afeaki Chambers, Auckland
Crownlaw, Wellington

[Mai.Chen@maichen.nz]
[tim.castle@capitalchambers.co.nz]
[grant@afeakichambers.co.nz]
[geoffrey.melvin@crownlaw.govt.nz]

[1] At the end of a two-day hearing, I invited counsel to confer during the afternoon adjournment to explore with their clients how the proceedings might be progressed. I intimated to counsel that their discussions might include consideration of, for example:

- (a) Amendments to the respondents' applications;
- (b) Whether a combination of adjournment, stay and directions could form part of any agreed approach to progress the substantive proceedings;
- (c) What timetabling implications and agreements might be explored in the overall context of both the strike-out and substantive proceedings; and
- (d) Whether any agreement could be reached on all or any of the above matters.

[2] Following the adjournment Mr Castle for the respondents confirmed, in summary, his clients needed a month to consider the matters raised and would confer with him before outlining their position by way of memorandum within a month. Mr Castle agreed when I characterised his clients request as essentially an application for a one-month adjournment to enable them to consider issues including whether changes could be made to their applications and if so the form of those changes.

[3] Ms Chen for the Rūnanga expressed concerns over ongoing delays and submitted that what the respondents were seeking may ultimately move the process no further ahead at the expiry of the one month sought. That said, she also reiterated her clients offer to engage with the respondents and their counsel in an effort to make progress. Mr Erskine endorsed the position advanced by Ms Chen. When pressed, Ms Chen confirmed that she opposed the one month adjournment request.

[4] After hearing from counsel, I confirmed that the adjournment would be granted to 1 December 2022. Mr Castle is to file and serve an updating memorandum on or before 5.00 pm on that day. I also propose a telephone conference of all counsel to be held on the following **Tuesday 6 December 2022 next at 9.00 am** to discuss the content of Mr Castle's memorandum with all counsel and its implications.

[5] I encourage counsel to maintain a dialogue and to explore where possible opportunities for hui and wānanga between their respective clients in an effort to uncover a pathway forward.

A handwritten signature in blue ink, consisting of a large, sweeping initial 'H' followed by a series of connected, fluid strokes that extend to the right.

Harvey J