

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

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

**CIV-2017-404-481  
CIV-2017-485-193  
CIV-2017-485-220  
CIV-2017-485-221  
CIV-2017-485-224  
CIV-2017-485-226  
CIV-2017-485-232  
CIV-2017-485-259  
CIV-2017-485-260  
CIV-2017-485-267**

**Group M**

UNDER the Marine and Coastal Area  
(Takutai Moana) Act 2011

IN THE MATTER OF an application by Gary Griggs on behalf  
of Ngāi Tūmāpuhia-a-Rangi Hapū for  
orders recognising Customary Marine  
Title and Protected Customary Rights

On the papers:

Counsel: C Hirschfeld for Te Hika o Pāpāuma (CIV-2017-404-481)  
L Watson for Ngāti Kere Hapū (CIV-2017-485-193)  
N Coates and C Mosdell for Pāpāuma Marae Trustees (CIV-2017-485-220)  
J Ferguson for Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua  
(CIV-2017-485-221)  
R Siciliano for Rangitāne Tū Mai Rā Trust (CIV-2017-485-224)  
S Yogakumar and M Sreen for Te Hika o Papaūma (CIV-2017-485-226)  
D Naden, M Yogakumar and M Sreen for Ngāi Tūmāpuhia-ā-Rangi Hapū  
(CIV-2017-485-232)  
T Bennion for Ngāti Hinewaka (CIV-2017-485-259)  
M Houra for Te Atiawa Iwi (CIV-2017-485-260)  
D Naden, M Yogakumar and M Sreen for Tukōkō and Ngāti Moe  
(CIV-2017-485-267)  
G Melvin for Attorney-General

Minute: 9 November 2022

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**MINUTE OF CHURCHMAN J**

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[1] The northern boundary for the Group M (East Coast Wairarapa) Stage 1(b) Hearing has been set at Poroporo.<sup>1</sup> This hearing is scheduled to commence on 12 February 2024, and it is anticipated that it will be presided over by Gwyn J.

[2] Ngāti Kere has proposed that the northern boundary for this hearing be extended north to Ouepoto. This would enable the entirety of their application area to be considered in the Stage 1(b) hearing, rather than being split across that hearing and further proceedings. This proposal has been put to other parties to Group M, and responses sought. The following responses have been received.

*Attorney-General*

[3] Mr Melvin submits that the Attorney-General will abide by the Court's decision, but provided the following information:

- (a) if the extension sought by Ngāti Kere is granted, it will not draw in additional parties with applications currently before the Court; but
- (b) two Crown engagement applications would be affected.

[4] The parties that would be affected are the Trustees of the Heretaunga Tamatea Trust (MAC-01-09-001), and Ngā Hapū o Kairakau me Pourerere, Ngāi Te Oatua, Ngāi Tamatera and Ngāti Hikatoa (MAC-01-09-006). Neither of those two Crown engagement applications have an application before the High Court nor have they sought to participate as interested parties in this hearing. They have not filed responses to Ngāti Kere's proposal. It appears that they are unaware of the request. Without adopting a position, Mr Melvin submits that:

- (a) leaving the Stage 1(b) boundary unchanged would mean Ngāti Kere could have the balance of its application determined by the High Court, or via the Crown engagement pathway; but

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<sup>1</sup> Minute of Churchman J [Case Management Conferences (CMCs) 2022], 1 July 2022, at [218]-[223].

- (b) the two Crown engagement applications noted above would not be able to have their applications heard by the Court if the boundary was adjusted as proposed.

[5] As to the second point, my understanding is that neither of the two Crown engagement applicants have filed proceedings in the High Court and therefore, while they would be able to apply to participate as interested parties in the hearing should they wish to do so, they would not be able to participate as applicants in the High Court proceedings irrespective of whether the boundary was adjusted or not.

[6] Mr Melvin advised the Court that once the request by Ngāti Kere for extension of the northern boundary of the hearing area is disposed of, Te Arawhiti would notify the Crown engagement-only applicants of the hearing area. That will allow those applicants to decide whether they wish to apply to participate as interested parties in the hearing.

*Trustees of Pāpāuma Marae*

[7] The Trustees of Pāpāuma Marae have indicated through counsel that they support the granting of the extension sought.

*Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki-nui-ā-Rua Settlement Trust*

[8] The Trustees of the Ngāti Kahungunu ki Wairarapa Tamaki-nui-ā-Rua Settlement Trust have indicated through counsel that they support the granting of the extension sought.

**Discussion**

[9] Mr Melvin provided two maps illustrating the effects of the extension sought by Ngāti Kere. It is a significant extension, one that may require the filing of additional evidence beyond that required if the hearing proceeds with the existing boundaries. Currently, the hearing is scheduled to take place over 10 weeks. A Stage Two hearing is to follow in respect of both the Stage 1(a) and Stage 1(b) hearings, for which no date has yet been set.

[10] The effect of an extension on Ngā Hapū o Kairakau me Pourerere, Ngāi Te Oatua, Ngāi Tamatera and Ngāti Hikatoa would be minimal, given that the southern boundary of their application extends only slightly south of Ouepoto. However, the effect of an extension on the Heretaunga Tamatea Trust could be potentially substantial. The southern boundary of the Heretaunga Tamatea Trust's application is Poroporo – therefore their participation in the Stage 1(b) hearing as an interested party would currently not be necessary, as there is no overlap between their application and the current hearing boundaries.

[11] If the Stage 1(b) hearing boundaries are extended to Ouepoto, to allow the inclusion of the balance of Ngāti Kere's claims, a large portion of the Heretaunga Tamatea Trust's application would be included within the hearing boundaries. As noted above, while the Heretaunga Tamatea Trust could participate in that hearing as an interested party, it could not have its application determined, as it does not have a High Court application. The same is true for Ngā Hapū o Kairakau me Pourerere, Ngāi Te Oatua, Ngāi Tamatera and Ngāti Hikatoa.

[12] On balance, I am not of the view that the participation of the two Crown engagement applicants in the Stage 1(b) hearing (should they wish to do so), would substantially extend the time required, or make the hearing unmanageable. The hearing is scheduled to begin approximately 15 months from now. That should be time enough for the parties to prepare. The only parties who have provided memoranda in response to Ngāti Kere's request have expressed no opposition to the proposal.

[13] Accordingly, I grant the request by Ngāti Kere to extend the northern boundary of the Stage 1(b) hearing for Group M, from Poroporo to Ouepoto.

**Churchman J**