

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

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

**CIV-2017-485-251
[2023] NZHC 2654**

IN THE MATTER of an application for recognition orders
under the Marine and Coastal Area
(Takutai Moana) Act 2011

BY Te Rūnanga a Rangitāne o Wairau Trust

Hearing: On the papers
Counsel M J Radich
Judgment: 22 September 2023

JUDGMENT OF CHURCHMAN J

[1] In my minute of 26 May 2023,¹ I directed that the amended application for Customary Marine Title (CMT) and Protected Customary Rights (PCR) be filed by 30 June 2023. On 30 June 2023, counsel accordingly filed an amended application with an accompanying affidavit and memorandum explaining the differences between the original application and the amended application.

[2] The amended application was deficient in several respects, however. The applicant has subsequently filed a revised amended application and accompanying memorandum, dated 14 September 2023.

[3] In its revised amended application, the seaward limit of the area claimed was initially described as “On the seaward side by the outer limits of the territorial sea”.

¹ Minute of Churchman J Re an application by Te Rūnanga a Rangitāne o Wairau Trust CIV-2017-485-251, 26 May 2023.

However, Te Moana-o-Raukawa/Cook Strait is considered to form part of the internal waters of New Zealand. Therefore, the boundary as shown in the map from waypoints C to H is within the territorial sea limit. The line shown on the attached map appeared to follow the line dividing the regional councils' territories, but this was not narrated fully in the amended application, as is required.

[4] The amended application has now been revised to remedy these defects. The amended application now refers to its seaward boundaries, both in respect of its CMT application area and its PCR application area, by express reference to the Marlborough District Council's regional boundaries. The boundaries match the outer limit of the territorial sea where applicable and the regional boundaries where the territorial sea limit does not apply, namely across Te Moana-o-Raukawa/Cook Strait.

[5] The amended application has attached maps of the CMT and PCR application areas. Those maps provide a schedule of coordinates, with degrees recorded to three decimal places and the originating coordinate system the degrees are derived from. I am satisfied the appended maps accordingly comply with the practice note issued by the Chief High Court Judge on 23 March 2022.

[6] I have compared the application areas as between the original application filed in 2017 and the amended application. The CMT and PCR application areas have not been increased. They have only been more explicitly defined. Being only a refinement of the application areas over which CMT and PCR are claimed, the amendment fits within the category of amended applications that will be allowed as set out in the *Ngāti Pāhauwera (strike-out application)* decision.²

[7] The activities listed in the amended application in respect of which PCRs are sought are slightly more detailed than those listed in the original application. However, I am satisfied that these simply provide greater clarity as to the activities over which the applicant group seeks recognition. They follow generally those activities listed in the original application. The nature of the claim has not changed and I am satisfied the activities listed do not constitute a fresh cause of action.

² *Re Ngāti Pāhauwera Development Trust (strike-out application)* [2020] NZHC 1139 at [62].

[8] To the extent the amended application is late, pursuant to my directions on 26 May 2023, counsel has explained the reason for the delay, namely liaising with its mapping expert and making further amendments to the description of the application areas accordingly, in line with matters raised with counsel. In the circumstances I am satisfied it is appropriate to allow the amended application to be filed out of time.

[9] Leave to file the amended application is allowed.

Churchman J

Solicitors:
Radich Law, Blenheim for Applicant