

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

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

**CIV-2017-404-481
CIV-2017-485-221
CIV-2017-485-224
CIV-2017-485-232
CIV-2017-485-259
CIV-2017-485-260
CIV-2017-485-267
Group M Stage 1(a)**

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

IN THE MATTER OF an application for orders recognising
Customary Marine Title and Protected
Customary Rights

On the Papers

Minute: 9 October 2023

**MINUTE OF GWYN J
(Revised questions for the Pūkenga)**

[1] The questions the Pūkenga, Dr Robert Joseph, is to answer in his report to the Court, were originally set in Churchman J’s minute of 8 November 2022.

[2] On 29 September 2023 counsel for the applicants and the interested parties for tangata whenua groups filed a “shared agreement” in which they set out the agreement in principle reached between those parties as to the relevant hapu in the specific identified coastal rohe. They proposed revised questions for the Pūkenga to address, based on that shared agreement.

[3] The Attorney-General’s memorandum of 2 October 2023 responded to the applicants’ proposed revised questions.

[4] In my minute of 5 October 2023, I indicated that, after conferring with the Pūkenga, Dr Joseph, I proposed to adopt the applicants' revised questions, with the Attorney's suggested amendments, but wished to receive any final submissions from the parties before doing so.

[5] In response, the applicants filed a further joint memorandum dated 5 October 2023, which proposed some further refinements to the revised questions. The proposed amendments were discussed at the resumed hearing on 6 October 2023.

[6] Dr Joseph and I have now conferred. The final form of the questions for the Pūkenga will be the revised version proposed by the applicants in their memorandum of 5 October 2023. The questions are **attached** to this minute. I thank counsel for their assistance in finalising the questions.

[7] As noted in my minute of 5 October 2023, the Pūkenga report is to be completed and circulated to the parties by **5pm Monday 16 October 2023**.

[8] Questioning of the Pūkenga by counsel in relation to his report, will take place on **Wednesday 18 October 2023**. The parties may participate in that questioning by VMR if they choose.

Gwyn J

MACA GROUP M, STAGE 1(A) – REVISED QUESTIONS FOR THE PŪKENGA

1. What tikanga does the evidence establish or support in the application area?
2. What aspects of tikanga should influence the assessment of whether or not:
 - a. the area in question, or any part of it, is held in accordance with tikanga?
 - b. there is a distinction between holding an area in question, or any part of it, in accordance with tikanga, and using that area or its resources in accordance with tikanga?
3. In respect of the areas as set out at [10] of the Joint Memorandum:
 - a. which applicant group or groups hold each of the relevant areas in accordance with tikanga?
 - b. where there is a shared interest, does it accord with relevant tikanga for each area to be held on a shared basis by the relevant groups?
4. In respect of the areas as set out in [10] of the Joint Memorandum, what aspects of tikanga are relevant to the assessment of whether or not:
 - a. an area in question, or any part of it, has been exclusively used and occupied by the relevant applicant group or groups?
 - b. the consideration of any third party activities, including ownership of abutting land, access to the takutai moana, and fishing?
5. Having regard to the evidence, what tikanga is relevant to the protected customary rights claimed by the applicants?