

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

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

**CIV-2017-404-526  
CIV-2017-404-534  
CIV-2017-485-209  
CIV-2017-485-216**

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

IN THE MATTER OF an application by Ngā Hapū o Mokau ki  
Runga Regional Management Committee  
(North) on behalf of Ngā Hapū o Mokau ki  
Runga

AND an application by Te Rangikaiwhiria Kemara  
on behalf of Ngā Tini Hapū o Maniapoto

AND an application by Paul Douglas Silich on  
behalf of Ngāti Tama

AND an application by Paula Page on behalf of the  
Ngāti Mutunga o Wharekauri Iwi Trust

Hearing: 11 December 2023

Appearances: B Tupara for Ngā Tini Hapū o Maniapoto CIV-2017-404-526  
C Ratapu and PRB Rawiri for Ngā Hapū o Mokau ki Runga  
CIV-2017-485-209 and CIV-2017-485-216  
V N Morrison-Shaw for Ngāti Tama CIV-2017-404-534  
G Melvin for the Attorney-General

Date of Minute 11 December 2023

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**MINUTE OF CHURCHMAN J**

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## **Introduction**

[1] Ngā Hapū o Mokau ki Runga have two MACA applications:

- (a) CIV-2017-485-216 (Northern area from Tirau Point to Mokau River);  
and
- (b) CIV-2017-485-209 (Southern area from Mokau River to Wai Pingao Stream).

[2] At the New Plymouth case management conference (CMC) this year, Ngā Hapū o Mokau ki Runga sought allocation of separate hearing dates for its northern and southern applications.

[3] The Court's minute of 28 July noted that the applications overlapped with applications by Ngā Tini Hapū o Maniapoto, Ngāti Tama, and Ngāti Mutunga o Wharekauri. They also overlapped with a direct engagement only applicant, Ngā Hapū o Poutama. The minute recorded that work needed to be done by way of discussion between these parties before the fixing of a date for a hearing could be undertaken and they were adjourned until today for an opportunity for such discussions to take place.

[4] Memoranda have been filed ahead of the CMC. Counsel made further submissions in support at this morning's CMC.

## **Updated position**

### *Ngā Hapū o Mokau ki Runga*

[5] Mr Ratapu, counsel for Ngā Hapū o Mokau ki Runga advised that various levels of engagement have been had with the overlapping groups.<sup>1</sup> Counsel says engagement so far has been positive and will continue through to any hearing or hearings set down.

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<sup>1</sup> "Engagement" with Ngā Hapū o Poutama appears to be limited to sending them an email or emails. Counsel submitted that Ngā Hapū o Mokau ki Runga are not aware of any interests of Ngā Hapū o Poutama and/or authority they may have to represent groups in this area.

[6] All counsel indicate that there is general agreement with the following hearing dates and hearing boundaries.

[7] In terms of hearing boundaries:

- (a) Stage 1(a) — Northern Hearing — from Tirua Point in the north, to the centre of the Mokau River in the south, with seaward boundaries to be confirmed. This would include Ngā Hapū o Mokau ki Runga and Ngā Tini Hapū o Maniapoto as applicants. There is a small triangular area at the southern edge of this claim that overlaps with the northern boundary of Ngāti Tama's claim. This area is roughly delineated in the map shown at [3] of counsel for Ngāti Tama's memorandum of 23 November 2023. It is more particularly set out in the diagram accompanying the memorandum of counsel for Ngāti Mutunga dated 24 November. Excluding this triangular strip from the proposed hearing means that Ngāti Tama would not need to participate in the proposed stage 1(a) hearing.
- (b) Stage 1(b) — Southern Hearing — from the centre of Mokau River in the north to Waipingao in the south. This would include Ngā Hapū o Mokau ki Runga, Ngā Tini Hapū o Maniapoto and Ngāti Tama as applicants, and potentially Ngāti Mutunga o Wharekauri (subject to the filing of an amended map by Ngāti Mutunga).

[8] Counsel submits the proposed Stage 1(b) hearing would include the entire Ngā Hapū o Mokau ki Runga Southern Application and the remaining part of the Ngā Hapū o Mokau ki Runga Northern Application not heard in Stage 1(a) (i.e. the small triangular strip mentioned above).

[9] In terms of hearing dates the estimates were:

- (a) Stage 1(a) — approximately four weeks of hearing time. A hearing in August/September 2025 was sought.

(b) Stage 1(b) — up to six weeks of hearing time in April/May 2026.

[10] Procedurally, Ngā Hapū o Mokau ki Runga suggests the following timeframe:

Submissions on pūkenga appointment	Seven months prior to hearing
Applicants file tangata whenua evidence	Six months prior to hearing
Applicants file historian and any other professional evidence	Six months prior to hearing
Interested parties with Crown engagement applications file evidence	Four months prior to hearing
Other interested parties (including Attorney-General) file evidence	Three months prior to hearing
Applicants file reply evidence	Two months prior to hearing
Close of pleadings	Two months prior to hearing
Common bundle filed	One month prior to hearing
Chronology/agreed facts and issues filed	One month prior to hearing
Notices of cross-examination filed	Two weeks prior to hearing
All parties file opening submissions and draft hearing timetable	Two weeks prior to hearing

*Te Rūnanga o Ngāti Tama*

[11] Ms Morrison-Shaw indicated that Ngāti Tama has no issue with a hearing being set down within the time frame sought for that part of the Ngā Hapū o Mokau northern application which falls outside of its own application area. Mr Tupara for Ngā Tini Hapū o Maniapoto did not object to this course although he emphasized the need for the parties to have the opportunity to discuss matters with each other prior to the hearing.

*Ngā Tini Hapū o Maniapoto*

[12] Mr Tupara confirmed that counsel had met with counsel for Ngā Hapū o Mokau Ki Runga, but the preference of Ngā Tini Hapū o Maniapoto is to meet with Ngā Hapū o Mokau Ki Runga and work out their respective differences in the northern area with a view to taking that through to a judicial settlement conference (JSC) rather than a trial. I indicated to counsel that the court is open to the possibility of a judicial settlement conference but that, before committing to that, the court needs to be satisfied that all applicants involved agree to participate in good faith and the holding of a JSC is likely either resolve or narrow the issues ultimately required for hearing.

Mr Tupara is to file a memorandum in the New Year (preferably joint) confirming that all parties agree on these points.

[13] With regard to the southern area, Ngā Tini Hapū o Maniapoto would prefer to meet with Ngā Hapū o Mokau Ki Runga before any decisions are made around a trial date. Counsel indicates discussions with Ngāti Tama are ongoing and progressing well.

*Ngāti Mutunga o Wharekauri*

[14] Counsel have advised of a proposal to seek an amendment to reduce their Taranaki application area to eliminate overlap with Ngā Hapū o Mokau ki Runga and have sought to be excused from the CMC. I have issued a minute to that effect but also required this applicant to formally amend their application by 31 January 2024 to confirm the reduced claim area.

*Attorney General*

Mr Melvin, on behalf of the Attorney General sought a variation of the proposed timetable to allow the Attorney General a one month period following the filing of the other Interested Parties' evidence within which to file her evidence. Ultimately, there was no opposition to that and I modify the draft timetable order accordingly.

**Directions**

[15] I direct that the Registrar allocate a hearing for the northern application (CIV- 2017 485 216) no earlier than September 2025. The nominal hearing length is to be four weeks but I anticipate that, following further discussion between the parties and the finalisation of evidence that this hearing length may well be able to be reduced. Once the hearing date has been identified, the timetable set out at [11] of Mr Ratapu's memorandum of 24 November 2024 can be implemented with the modification that the Attorney General is not required to file evidence until one month after the other interested parties. The applicants' right to file reply evidence is also modified accordingly.

[16] The proposed 1(b) hearing (CIV 2017 485 209) is not timetabled for hearing at the moment. This issue will be addressed at the June 2024 CMC. By that time, Ngati Mutunga will have filed their amended application and the parties will have had the opportunity of further discussions. It will be clearer exactly what matters are still in issue and a more realistic time estimate can be provided.

[17] The parties are directed to address the issues of the outcome of discussions, readiness for hearing and estimated length of hearing in the memoranda they file for the June 2024 CMC.

A handwritten signature in black ink, appearing to read "J. Churchman", written in a cursive style. The signature is positioned above a horizontal line.

Churchman J

Solicitors / Counsel / Parties:

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Ms V N Morrison-Shaw, Barrister, Matakana (vicki@morrisonshaw.nz)

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