

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

**I TE KŌTI MATUA O AOTEAROA
WHANGĀREI-TERENGA-PARĀOA ROHE**

**CIV-2017-404-573
[2023] NZHC 745**

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

IN THE MATTER OF an application by Maia Maria Nova
Honetana on behalf of Ngāti Tu ki Ngāpuhi
for orders recognising Customary Marine
Title and Protected Customary Rights

On the papers:

Counsel: B J Loader for Applicant

Judgment: 17 April 2023

JUDGMENT OF CHURCHMAN J

Introduction

[1] By memorandum dated 3 April 2023, the applicant, Maia Maria Nova Honetana, on behalf of Ngāti Tu ki Ngāpuhi, seeks leave for Ngāti Tu ki Ngāpuhi to appear as an interested party on a number of applications for recognition orders for customary marine title and protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act).

[2] The applications in which the applicant seeks leave for Ngāti Tu ki Ngāpuhi to appear as an interested party are the following:

CIV-2009-488-205	Te Uri O Hau Settlement Trust
CIV-2017-404-442	Ropu o Rangiriri

CIV-2017-404-537	Nga Puihi nui tonu, Ngāti Rahiri, Ngāti Awa, Ngā Tahu and Ngaitawake
CIV-2017-404-545	Ngāti Manuhiri
CIV-2017-404-546	Ngāti Rehua
CIV-2017-404-554	Nga Hapu o Ngāti Wai Iwi
CIV-2017-404-555	Te Whanau o Hone Papita Raua Ko Rewa Ataria Paama
CIV-2017-404-558	Ngaitawake
CIV-2017-404-563	Te Runanga o Ngāti Whātua
CIV-2017-404-566	Te Waiariki, Ngāti Korora, Ngāti Takapari Hapu/Iwi, Hapu of Niu Tireni
CIV-2017-404-567	Te Taou
CIV-2017-404-570	Te Hikutu Hapū
CIV-2017-404-579	Nga Hapu o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai
CIV-2017-485-231	Ngāti Hine
CIV-2017-485-239	Te Rae Ahu Whenua Trust
CIV-2017-485-250	Ngāti Pukenga
CIV-2017-485-281	Patuharakeke Te Iwi
CIV-2017-485-283	Ngātiwai
CIV-2017-485-286	Patuharakeke
CIV-2017-485-305	Te Parawhau
CIV-2017-485-378	Ngāti Maraeariki, Ngāti Rongo
CIV-2017-485-398	Ngāti Kawau & Te Waiariki Korora
CIV-2017-485-409	Whangaroa Ngaiotonga Trust
CIV-2017-485-515	Reti Whanau
CIV-2017-485-799	Te Parawhau Hapu
CIV-2017-488-029	Mokau Whanau
CIV-2017-485-279	Ngāti Takapari

The application

[3] The applicant has served copies of its application on all those applicants whose applications it wishes to become an interested party to. The Court has not received

any notices of opposition to the application or any other communication from those other parties. Accordingly, I proceed on the basis that the application is unopposed. However, I still need to consider whether the application should be granted.

[4] The background to the current application is that, on 17 August 2022, the applicant filed an amended application under the Act for recognition orders. The amended application reduced the geographic scope of the original application. Since then it has come to counsel's attention that interested party status was not sought on any applications that overlapped the application area. It is perhaps unsurprising that this was not done at the time of the filing of the original application given its wide geographic extent.

[5] The applicant is therefore no longer an applicant for recognition orders in respect of a number of adjacent application areas but still has a legitimate interest in the outcome of those applications. That is why it has sought interested party status in the applications set out above, all of which either sit adjacent to overlap its own amended application area.

[6] The real issue for determination is whether the particular circumstances of this case and the consequences of having filed an amended application justify the Court in granting the application notwithstanding that it is out of time.

Discussion

[7] Section 104 of the Act provides that “[a]ny interested person may appear and be heard on an application for a recognition order if that person has, by the due date, filed a notice of appearance.”

[8] It is accepted this application is being made well after the “due date”, which, pursuant to s 100, expired on 3 April 2017. Nevertheless, counsel submits the circumstances are such that it is appropriate here for the applicant to join as an interested party notwithstanding this deadline.

[9] It is clear that Ngāti Tu ki Ngāpuhi is an interested party within the meaning of s 104. Firstly, it is itself an applicant, having applied for recognition orders under the

Act. Secondly, the area of its substantive application overlaps or is adjacent to the application areas of all applications for orders in respect of which it seeks to become an interested party. In these circumstances, the Court is likely to benefit from its participation in the applications that it wants to participate in. Indeed, in respect of those applications which overlap its own, it is arguable that no application to participate as an interested party was required as it can fully participate as an overlapping applicant. It is therefore appropriate that Ngāti Tu ki Ngāpuhi be granted leave to appear as an interested party.

[10] I am satisfied that, in the particular circumstances of this case, there is no prejudice that will be incurred by other parties in granting this application.

[11] In the absence of any countervailing considerations, and in the absence of any opposition, I do not consider the fact the application is brought out of time is an obstacle to the application being granted here.

Result

[12] The application for Ngāti Tu ki Ngāpuhi to appear as an interested party in respect of the applications for which leave is sought is granted.

Churchman J

Solicitors:
Loader Legal, Auckland for Applicant