

**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 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 Ātiawa ki Te Upoko o Te Ika a Maui Potiki Trust
(CIV-2017-485-260)
D Naden, M Yogakumar and M Sreen for Tukōkō and Ngāti Moe
(CIV-2017-485-267)

Interested parties:

B Lyall for Ngāi Tumapuhia-A-Rangi Ki Motuwairaka Inc
B Lyall for Ngāi Tumapuhia-A-Rangi Ki Okautete Inc
B Scott for Seafood Industry Representatives
G Melvin for Attorney-General

Minute: 28 February 2023

MINUTE (NO 5) OF CHURCHMAN

[1] By memorandum dated 16 February 2023, Ms Houra, counsel for Te Ātiawa ki Te Upoko o Te Ika a Maui Potiki Trust (Te Ātiawa), sought leave for this applicant to file evidence, both tangata whenua and historian and other professional evidence otherwise in accordance with the timetable directions previously made.

[2] The Group M (Stage 1) hearings have been split into two separate hearings referred to as Group 1(a) and Group 1(b). It appears that Te Ātiawa may have previously been referred to by the Court as being involved in Group 1(b) although I note that my minute of 6 December 2022 addressing the timetable order for Group 1(a) correctly records Ms Houra as appearing for Te Ātiawa alongside all the other Group 1(a) counsel and parties.

[3] Ms Houra wants leave to file both tangata whenua and historian/professional evidence no later than Friday 28 April 2023. She provides a number of explanations including the fact that the historian commissioned has indicated the historical report is not available before 28 April 2023 and then only in summary form.

Analysis

[4] Applications to vary timetable orders in respect of time limits that have already expired have the potential to create inconvenience to all parties and can lead to other parties seeking leave to file evidence in reply, also out of time. It is also disruptive of the orderly progress of a complex hearing such as this in accordance with the set timetable directions.

[5] It seems that Ms Walzl's evidence is anticipated only to be in summary form as at 28 April 2023. That is also unsatisfactory. If Mr Walzl's final evidence differs in any significant way from the summary that has the potential to result in applications either to strike that evidence out or to file evidence in reply.

[6] With some reluctance, I grant the extension in the terms requested. However, counsel is encouraged to file tangata whenua briefs of evidence as soon as they are finalised rather than wait until the 28 April 2023 and file them all at once. This will allow the other parties who have complied with the timetable directions to assess what is required, if anything, to be filed by way of reply and minimise the need for further applications by other parties to seek leave to file documents out of time.

[7] In respect of Mr Walzl's evidence, leave is granted on the basis that his final evidence will be filed as soon as possible after 28 April 2023 and not differ in any material respect from what is indicated in the summary.

[8] Should Mr Walzl's final brief not be filed by 28 May 2023, I reserve leave for any adversely affected party to apply for such remedies as they may see fit. If the late filing of evidence results in the hearing not being able to proceed as set down, costs may be in issue.

Churchman J