

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

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

**CIV-2017-485-259
CIV-2017-485-232
CIV-2017-485-267
CIV-2017-485-224
CIV-2017-485-260
CIV-2017-485-221**

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

AND

IN THE MATTER OF an application by Gary Griggs on behalf of
Ngai Tumapuhia a Rangi Hapu for orders
recognising Customary Marine Title and
protected Customary Rights

On the Papers

Counsel: M Sreen and M Yogakumar for Ngāi Tumapuhia-a-Rangi Hapū
and Tukōkō and Ngāti Moe
T Bennion for Ngāti Hinewaka
R Siliciano for Rangitāne Tū Mai Rā Trust
M Houra for Te Atiawa ki te Upoko o te Ika a Maui Potiki Trust
J P Ferguson for Te Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-
Rua
J Prebble and C Barnett for the Attorney-General

Minute: 21 March 2023

**MINUTE OF GWYN J
(Group M Stage 1(a) Hearing Venue and Schedule)**

[1] This matter is set down for an eight week hearing, commencing on 4 September 2023. It is scheduled to be heard in the Wellington High Court.¹

¹ Minute of Churchman J dated 4 August 2022 [2023 & 2024 Fixtures and 2023 CMC dates] at [21].

[2] In a joint memorandum of counsel for the applicants dated 3 February 2023 the applicants requested a change in venue for the hearing from the Wellington High Court to the Copthorne Solway Park in Masterton (Copthorne), or a venue of equal suitability.

[3] Having received the memorandum I advised the parties that the High Court Registry would undertake further enquiries regarding the suitability of the Copthorne and, once those enquiries were completed, respond to the parties with a specific proposal.² In the meantime, I requested that counsel consider how the hearing might work in practice if opening submissions and tangata whenua evidence were presented in Masterton, with historian and professional witness evidence and closing submissions presented at the High Court in Wellington.

[4] I am grateful for the joint memorandum of counsel for the following applicants, dated 17 March 2023, responding to my minute:

- (a) Ngāi Tumapuhia-a-Rangi Hapū (CIV-2017-485-232);
- (b) Tukōkō and Ngāti Moe (CIV-2017-485-267);
- (c) Ngāti Hinewaka (CIV-2017-485-259);
- (d) Te Atiawa ki te Upoko o te Ika a Maui Potiki Trust (CIV-2017-485-260);
- (e) Rangitāne Tu Mai Rā Trust (CIV-2017-485-224);
- (f) Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua (CIV-2017-485-221).

(the applicants).

² Minute of Gwyn J 17 February 2023.

[5] In their memorandum counsel note the applicants' preference for both tangata whenua evidence and historical evidence to be presented together, in Masterton, because the historical evidence complements the tangata whenua evidence and is most effectively presented together. Counsel set out a proposed timetable which would allow for that to occur, with an interval in hearing week 6 to allow for a site visit, provision of notes of evidence, and preparation of a Pūkenga report. Weeks 7 and 8 would be held in the Wellington High Court for the questioning of the Pūkenga in relation to his report and for closing submissions.

[6] Counsel for the applicants advise that the proposal set out in the memorandum is also supported by:

- (a) Ngai Tumapuhia-A-Rangi Ki Motuwairaka Incorporated (interested party).
- (b) Ngai Tumapuhia-A-Rangi Ki Okautete Incorporated (interested party).

[7] Counsel also advised that counsel for the Attorney-General is comfortable with their proposal.

Outcome of Registry enquiries

[8] The Wellington High Court Registry has visited the Copthorne to review its suitability for this hearing and made appropriate enquiries as to funding of the hearing, if all or part of it were to be held at the Copthorne. I can advise that the Copthorne is suitable.

[9] In light of that, I make the following directions:

- (a) Hearing weeks 1-4 (Masterton) – opening submissions, tangata whenua evidence and historical evidence.³

³ The Copthorne facility will be booked only for the first four hearing weeks. Any tangata whenua and historical evidence not completed during that time will need to be given at the Wellington High Court in hearing week 5 (attendance by AVL possible).

- (b) Hearing week 5 (Wellington High Court) – evidence from interested parties.
- (c) Hearing week 6 – the Court will not sit but a site visit may be organised. In addition, the one week interval will allow for the provision of notes of evidence to counsel up to that point and preparation of the Pūkenga report.
- (d) Hearing week 7 (Wellington High Court) – questioning of the Pūkenga in relation to his report, attendance by AVL available.
- (e) Hearing week 8 (Wellington High Court) – presentation of closing submissions.

Site visit

[10] I thank counsel for their proposal that the parties and the Court undertake a site visit in hearing week 6. Counsel for the Attorney-General have filed a memorandum dated 20 March 2023 specifically addressing that proposal. Counsel’s memorandum helpfully sets out the provisions governing site visits.⁴ I accept the submission made in the Attorney-General’s memorandum that, if a site visit is to take place, all parties should have the opportunity of attending the visit. I also agree that the primary purpose of any site visit should be to identify places and landmarks of significance to the applications. I acknowledge that parties may wish to attend the visit for their own application areas only, but the opportunity to attend the entirety of the visit should be available to all parties.

[11] With those caveats in mind, I can indicate that I am agreeable to a site visit and I gratefully accept counsel’s request to develop a more detailed structure for such a visit. I can then make a decision about whether, and on what basis, it should proceed.

Gwyn J

⁴ High Court Rules 2016, rr 9.34 and 9.35, Evidence Act 2006, s 82.