

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

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

**CIV-2017-485-258  
CIV-2017-485-160  
CIV-2017-485-261  
CIV-2017-485-260  
CIV-2017-485-365  
CIV-2017-485-266  
CIV-2017-485-172  
CIV-2017-485-280  
CIV-2017-485-211  
CIV-2017-485-248  
CIV-2017-485-251**

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: D Edmunds for Williams and Grace on behalf of the owners of the  
Hongoeka Blocks (CIV-2017-485-258)  
D Naden for Muaūpoko Iwi (CIV-2017-485-160)  
T Bennion for Muaūpoko Tribunal Authority Incorporated (CIV-2017-485-261)  
M Houra for Te Ātiawa ki te Upoko o te Ika a Maui Potiki Trust  
(CIV-2017-485-260)  
M Houra for Te Ātiawa o te Waka-a-Māui Trust (CIV-2017-485-365)  
J Appleyard for Ngāi Tūāhuriri (CIV-2017-485-266)  
L Black for Tahuaroa-Watson Whānau (CIV-2017-485-172)  
T Castle Te Rūnanga o Rangitane o Kaituna (CIV-2017-485-167)  
R Brown for Ngāi Tahu Whānui (CIV-2017-485-280)  
A Houia-Ashwell for Tupoki Takarangi Trust (CIV-2017-485-211)  
T Ahu for Te Ātiawa ki Whakarongotai (CIV-2017-485-248)  
M Radich for Te Rūnanga a Rangitāne o Wairau Trust (CIV-2017-485-251)

Interested parties:

D Ward for Attorney-General  
S Cvitanovich for Seafood Industry Representatives

Minute: 12 May 2023

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**MINUTE OF CHURCHMAN J**  
**[CMC – Wellington (No 3)]**

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[1] In my minute of 13 December 2022,<sup>1</sup> I made a number of directions in relation to the proposed Group N Stage 1(b) hearing. I directed that the parties confer on the outstanding issues and file memoranda. The principal issue was where the seaward boundaries of the Te Ika a Maui applicants were and the issue of whether there was a boundary of the territorial sea in Cook Strait (Raukawa Moana) between the North and South Islands.

[2] Counsel for the Attorney-General has filed three memoranda, the most helpful being that of 14 April 2023.

[3] That memorandum disclosed that some boundary issues remained as yet unresolved and that the seaward boundaries of some applications still required clarification.

[4] There are a number of reasons for this:

- (a) a number of applications have listed the seaward boundary as being 12 nautical miles without providing any coordinates. There are parts of Raukawa Moana where there is no territorial limit boundary as the land on either side is less than 12 nautical miles from the centre point of the strait;
- (b) in other incidences, maps appear to have relied on local authority territorial boundaries which tend to follow a mid-line of the strait but, confusingly, affidavit evidence in support of the applications in some incidences refers to the territorial limits.

[5] The Attorney-General noted that the amended applications for CIV-2017-485-248 (Te Ātiawa ki Whakarongotai) and CIV-2017-485-160 (Muaūpoko Iwi) no longer appeared to raise issues concerning overlaps with South Island based application groups.

[6] The particular difficulties identified by counsel for the Attorney-General are:

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<sup>1</sup> *Re Tupoki Takarangi Trust & Ors Minute (No. 15)* of Churchman J, 13 December 2022.

- (a) *CIV-2017-485-261 – Muaūpoko Tribal Authority*: The application area states that the seaward boundary for the PCR application area is the limit of the territorial sea. However, this area appears to extend into Raukawa Moana (Cook Strait) where there is no territorial sea boundary. The limit of the boundary claim will therefore need to be expressed by way of coordinates.
- (b) *CIV-2017-485-260 – Te Ātiawa Iwi ki te Upoko o Te Ika a Maui Potiki*: The application and its supporting affidavit do not contain sufficient information to depict the seaward boundary. The application specifies coordinates on the coastline but not the angle at which the lateral boundary extends into the sea area. No seaward boundary is specified. The application refers to a map used in a fisheries protocol under a deed of settlement. The seaward boundary of the fisheries protocol area is the boundary of the adjacent fisheries management area. However, that boundary is not expressly stated to be the seaward boundary of the application area. The applicant will need to clarify the intended seaward boundary and to provide an updated map.
- (c) *CIV-2017-485-211 – Tupoki Takarangi Trust*: The application refers to a specific area set by coordinates. That area does not extend to the territorial sea limit. However, the affidavit in support of the application says the boundary is the outer limit of the territorial sea. This creates a conflict. Given that specific coordinates are referred to in the application, that will be the boundary on which the application is to proceed.
- (d) *CIV-2017-485-167 – Te Rūnanga o Rangitāne o Kaituna Inc*: The application map appears to have adopted a Regional Council boundary as part of the seaward boundary (on the most eastern side of the application area). However, the application refers to the limits of the territorial sea as the seaward boundary. Again, the conflict is resolved by relying on the application map as depicting the boundary rather than the limits of the territorial sea as, there is no territorial sea limit within Raukawa Moana (Cook Strait) in this area.
- (e) *CIV-2017-485-172 – Tahuaroa-Watson Whānau, Puketapu Hapū*: This application area includes a lateral boundary eastward from the coast, marked on

the amended application as being a distance of 12 nautical miles offshore. However, the application map does not give a boundary line of 12 nautical miles. It appears that the intention of the map is to intersect with the Regional Council boundary in Raukawa Moana/Cook Strait. This requires clarification by the applicant.

- (f) *CIV-2017-485-251 – Te Rūnanga o Rangitane o Wairau Trust*: The application outlines a seaward boundary that does not extend to the outer limit of the territorial sea. However, the application itself says the seaward boundary is the outer limit of the territorial sea. To complicate matters further, the application boundary in some previous mapping has matched the Regional Council boundary. The application needs to be amended to show what boundary is being relied upon.

## **Other developments**

### *Ngāi Tūāhuriri Hapū*

[7] Ngāi Tūāhuriri Hapū have confirmed that following the amendment of the Muaūpoko Iwi application area, there is no longer an overlap, and that Ngāi Tūāhuriri does not seek to participate in the Group N 1(b) hearing.

### *Te Rūnanga a Rangitane o Wairau Trust*

[8] Counsel filed a memorandum dated 28 April 2023 which indicated they understood there still to be some overlap in respect of the applications of Muaūpoko Tribal Authority and Te Ātiawa Iwi ki te Upoko o Te Ika a Maui Potiki Trust applications. On that basis, Rangitane wished to participate in the Group N 1(b) hearing as an interested party.

[9] Leave is granted for Rangitane to file its memorandum out of time and to participate in the June case management conference (CMC).

[10] Rangitane is directed to file, ahead of the June CMC, details as to precisely where it believes the overlap exists.

**Churchman J**