

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

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

**CIV-2017-404-520
CIV-2017-404-524
CIV-2017-404-542
CIV-2017-404-567
CIV-2017-404-545
CIV-2017-404-546
CIV-2017-404-580
CIV-2017-404-563
CIV-2017-404-564
CIV-2017-404-574
CIV-2017-485-187
CIV-2017-485-188
CIV-2017-404-518
CIV-2017-404-569
CIV-2017-404-581
CIV-2017-404-582
CIV-2017-485-276
CIV-2017-485-378**

IN THE MATTER OF an application for recognition orders under the
Marine and Coastal Area (Takutai Moana) Act 2011

BY Ngāti Whatua Ōrākei Trust CIV-2017-404-520
Ngāti Awa and Ngāpuhi CIV-2017-404-524
Te Taou CIV-2017-404-542
Te Taou CIV-2017-404-567
Ngāti Manuhiri CIV-2017-404-545
Ngāti Rehua CIV-2017-404-546
Ngāti Rehua-Ngātiwai ki Aotea CIV-2017-404-580
Te Rūnanga o Ngāti Whātua CIV-2017-404-563
Ngāi Tai Ki Tāmaki CIV-2017-404-564
Ngāti Rehua/Ngātiwai ki Aotea CIV-2017-404-574
Taumata B Block CIV-2017-485-187
Whānau Bouchier CIV-2017-485-188
Ngāti Taimanawaiti CIV-2017-404-518
Ngāti Te Ata CIV-2017-404-569
Otakanini Topu Māori Inc CIV-2017-404-581
Te Whānau-a-Haunui CIV-2017-404-582
Ngāti Rongo o Mahurangi CIV-2017-485-276
Ngāti Maraeariki, Ngāti Rongo CIV-2017-485-378

On the papers:

Counsel: J W J Graham and R M A Jones for CIV-2017-404-520
B Lyall, H Swedlund and R Zwaan for CIV-2017-404-524
T Castle for CIV-2017-404-542 and CIV-2017-404-567
J Pou for CIV-2017-404-545
M Yogakumar and J H Fletcher for CIV-2017-404-546 and
CIV-2017-404-580
M Chen and C Saunders for CIV-2017-404-563
R Siciliano and J Matenga for CIV-2017-404-564
L Thornton for CIV-2017-404-574
L Black for CIV-2017-485-187 and CIV-2017-485-188
D C F Naden and G J M Chan for CIV-2017-404-518
J Kahuika for CIV-2017-404-569
A Sykes and L Thornton for CIV-2017-485-276 and CIV-2017-485-378

Interested parties:

G J Mathias for Langs Beach Society Inc
A Green and T Greensmith-West for Hauraki DC, Waikato DC, and
Thames-Coromandel DC
G Melvin for Attorney-General

Minute: 12 May 2023

MINUTE OF CHURCHMAN J
[Case Management Conferences 2023 – Auckland]

CIV-2017-404-520 – Ngāti Whatua Ōrākei Trust

[1] Counsel’s memorandum of 2 May 2023 records this applicant’s preference for direct engagement with the Crown. The memorandum also details efforts to address overlapping claims. There has been some success so far and the applicant is encouraged to pursue this initiative.

[2] The memorandum anticipates that much of the evidence relevant to recent litigation will be relevant to the claim under this Act and it will be able to be used in these proceedings.¹

¹ *Ngāti Whatua Ōrākei Trust v Attorney-General* [2022] NZHC 843 and *Ngāti Whatua Ōrākei Trust v Attorney-General* [2023] NZHC 74.

[3] Given the applicant's preference for engagement with the Crown, it does not seek any orders and counsel seeks to be excused from attending the case management conference (CMC). That request is granted.

CIV-2017-404-524 – Ngāti Awa Ngāpuhi

[4] Evidence gathering is continuing and arrangements have been made for discussions with overlapping applicants in accordance with tikanga. The applicant requests an adjournment for 12 months and counsel intend appearing at the CMC.

CIV-2017-404-542 – Te Taou; CIV-2017-404-567 – Te Taou

[5] Counsel's memorandum recorded that tangata whenua evidence is being prepared and Te Arawhiti have offered funding for both applications which has been accepted. Counsel acknowledges that there are overlapping applications. It appears that as yet, there have been no discussions with those overlapping applications. The applicant is encouraged to pursue those discussions as soon as is practicable.

[6] Counsel's request to be excused from attending the CMC on 1 June 2023 is granted.

CIV-2017-404-545 – Ngāti Manuhiri

[7] Counsel advise that this applicant has not yet completed preparation for hearings and suggests that as it is unlikely the hearings will take place until 2025 or 2026, no directions are sought.

[8] Counsel's request to be excused from attendance at the Auckland CMC is granted.

CIV-2017-404-546 – Ngāti Rehua and CIV-2017-404-580 – Ngātiwai ki Aotea and Ngāti Rehua-Ngāti Wai ki Aotea

[9] Counsel's memorandum of 1 May 2023 seeks leave to amalgamate application CIV-2017-404-546 and CIV-2017-404-580. At present the amalgamation process is not complete and counsel seeks leave to file an amended application prior to July 2023.

[10] The memorandum notes that the effect of amalgamation will be to reduce the application area for Ngāti Rehua CIV-2017-404-546.

[11] Quite apart from the amalgamation issue, evidence gathering is incomplete and this matter not ready to be set down.

[12] Some kōrero has been held with overlapping applicants.

[13] To the extent that it is necessary, leave to grant an amended application amalgamating the two proceedings is granted. However, the amended application cannot extend the area claimed or expand upon the nature of the application.

CIV-2017-404-563 – The Rūnanga o Ngāti Whātua

[14] Counsel's memorandum of 1 May 2023 detailed progress in relation to the Whangarei Harbour and Whangarei Coast hearings retrospectively commence on 12 February 2024 and 22 July 2024. Multiple hui have already occurred and more are planned. The memorandum confirmed that it was anticipated that the application may be amended prior to the close of pleadings date.

[15] Counsel draws to the Court's attention that there is a very short time gap between the completion of the Whangarei Harbour hearing anticipated to be on 17 May 2024 and the timetabling of evidence for the Whangarei Coast hearing on 20 May 2024. Counsel request an extension from the 20 May 2024 deadline to 31 May 2024. That request is granted.

[16] Counsel's request to be excused from the Auckland CMC is also granted. Counsel will appear at the Whangarei CMC.

CIV-2017-404-564 – Ngāi Tai Ki Tamaki

[17] Counsel's memorandum noted that the Ngāi Tai Ki Tamaki trustees had changed since the last CMC. Evidence gathering, including that of the professional historian, is not yet complete. There have been some initial discussions with overlapping claimant groups. Counsel's request for an adjournment to the 2024 Auckland CM is granted. Unless issues arise from the memoranda filed by other counsel that the applicant wishes to appear and respond to,

counsel's request to be excused from the 1 June 2023 CMC is granted, as is the request that, if there is a need to respond to material in another applicant's memorandum, counsel may attend by VMR or similar link.

CIV-2017-404-574 – Ngāti Rehua/Ngātiwai ki Aotea

[18] Counsel's memorandum of 5 May 2023 records that hui with cross-applicants has resulted in a boundary adjustment which removed an area of overlap. However, many overlaps remain.

[19] Counsel requests that a further CMC be scheduled some six months after the 1 June 2023 CMC in order to progress applications concerning Aotea. The response to that suggestion from overlapping applicants will be sought at the 1 June CMC.

CIV-2017-485-187 – Taumata B Block and CIV-2017-485-188 0 Whānau Bouchier

[20] Counsel's memorandum of 9 May 2023 advised that counsel had only recently been instructed and that the applicants were at an early stage of progress having not yet even appointed a historian. The memorandum acknowledged the existence of overlapping applications and expressed an aspiration to enter into dialogue with those overlapping applicants. That is encouraged.

[21] The request for adjournment to the 2024 Auckland CMC is granted and counsel's appearance on 1 June 2023 is excused.

Interested parties

Langs Beach Society Incorporated

[22] Counsel's memorandum of 3 May 2023 sought leave to participate in the 1 June 2023 by way of AVL. That leave is granted. Counsel is to liaise with the Registrar to facilitate that appearance.

Hauraki District Council, Waikato District Council and Thames-Coromandel District Council

[23] Counsel's memorandum of 10 May 2023 sought to participate by VMR at the Auckland, Tauranga, Rotorua and Hamilton CMCs. That request is granted. Counsel is to liaise with the Registrar to facilitate those appearances.

Other applicants

[24] All applicant's counsel who have not filed memoranda as directed are required to be physically present at the CMC.

Churchman J