

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

**I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-A-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
Group M, Stage 1(b)**

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

Minute: 19 December 2023

**MINUTE OF GWYN J
(Stage 1(b) timetable and start date)**

[1] The Group M, Stage 1(b) applications are set down to be heard over 10 weeks, beginning on 12 February 2024 at the Wellington High Court.

[2] The hearing timetable was initially set by Churchman J in his minute of 13 February 2023 and subsequently amended on 2 August 2023.¹

[3] Counsel for the following parties have filed a joint memorandum dated 15 December 2023, which proposes a revised timetable and a one week delay to the start of the Stage 1(b) hearing. Those parties are:

- (a) Pirere Whānau (CIV-2017-485-226);
- (b) Te Hika o Pāpāuma (CIV-2017-404-481);
- (c) Trustees of Pāpāuma Marae on behalf of the original owners of Mataikona 1, 2 and 3 blocks and their descendants (CIV-2017-485-220);
- (d) Rangitāne Tū Mai Rā Trust (CIV-2017-485-224);
- (e) Ngāti Kere Hapū (CIV-2017-485-193);
- (f) Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Trust (CIV-2017-485-221); and
- (g) Attorney-General.

[4] In counsel's view, the full 10 weeks of hearing will not be required, even taking into account the need to hear wāhi tapu evidence in respect of Stage 1(a).

[5] Counsel for the Attorney-General had earlier filed a separate memorandum dated 14 December 2023, seeking directions in relation to the evidence on behalf of the Ngāti Kere hapū (Ngāti Kere) and the refiling of any evidence from the Stage 1(a)

¹ Minute of Gwyn J (Stage 1(b) hearing and venue) dated 2 August 2023.

hearing. As to the former, counsel understands that Ngāti Kere intends to rely on evidence already filed in the *Clarkson* proceeding (CIV-2011-485-789).²

[6] Counsel for the Attorney-General also addresses the question of re-filing of evidence in relation to the Whareama River that was filed in Stage 1(a) and sought a direction as to timing of the evidence. That evidence will include the examination, cross-examination and re-examination of witness evidence and exhibits or hand-ups produced during the course of the Stage 1(a) hearing.

[7] All counsel agree that the issues raised in [5] and [6] above can be absorbed into the proposed revised timetable.

[8] I am grateful for the Attorney-General's indication that counsel will compile the notes of evidence relevant to the Whareama River and refile them in the Stage 1(b) proceeding by way of an affidavit, to which the notes will be appended. The Attorney-General suggests that counsel for the applicants may wish to undertake their own exercise to ensure that all relevant evidence in relation to the Whareama River is collated and presented.

[9] I agree with counsel's estimate of the hearing time necessary for Stage 1(b). I note that the Court will likely not sit in the week of 25 March 2024, but Court time is available for the week of 29 April to 3 May 2024.

[10] On that basis I am prepared to amend the hearing start date and timetable and I make the following timetable directions:

- (a) Applicants' reply evidence (and including any evidence to be filed by Ngāti Kere and any evidence from the Stage 1(a) hearing, not yet filed) filed by **Friday 19 January 2024**.
- (b) Attorney-General's evidence in reply to Dr Bell filed by **Friday 26 January 2024**.

² Affidavit of P Sciascia dated 31 March 2017; affidavit of M Smith dated 27 April 2017; affidavit of D T Leach dated 2 July 2020.

- (c) Electronic common bundle filed by **Friday 26 January 2024** (hard copies to follow on 2 February 2024).
- (d) Draft hearing timetable filed by **Friday 26 January 2024**.
- (e) Applicant opening submissions filed by **Monday 5 February 2024**.
- (f) Attorney-General and interested party opening submissions filed by **Monday 12 February 2024**.
- (g) Hearing commences **Monday 19 February 2024**.

Gwyn J