

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

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

CIV-2011-485-817

IN THE MATTER OF	the Marine and Coastal Area (Takutai Moana) Act 2011
IN THE MATTER OF	an application for an order recognising Customary Marine Title and Protected Customary Rights
BY	the late Claude Augustin Edwards (deceased), Adriana Edwards and others on behalf of Te Whakatōhea

On the papers:

Counsel: T Sinclair for Te Whakatōhea (CIV-2011-485-817)
L Delamere for Pakowhai (CIV-2017-485-264)
C Davis for Ngāti Muriwai (CIV-2017-485-269)
L Delamere for Te Whānau a Apanui (CIV-2017-485-278)
D Flavell for Hiwarau C (CIV-2007-485-375)
L A Underhill-Sem for Te Whānau a Apanui (CIV-2017-485-318)
R Siciliano for Te Whānau a Mokomoko (CIV-2017-485-253)
E Whiley for Ngāti Patumoana (CIV-2017-485-253)
C Linstead-Panoho for Ngāi Tamahaua Hapū (CIV-2017-485-262),
and Te Hapū Titoko o Ngāi Tama (CIV 2017-485-377)
A Sykes and J Chaney for Ngāti Ira o Waioweka Rohe
(CIV-2017-485-299)
D A Ward and Y Moinfar-Yong for Attorney-General

Minute: 25 February 2020

MINUTE (NO 8) OF CHURCHMAN J

Te reo Māori

[1] With the evidence now being filed and preparations for the hearing underway, it is timely to remind counsel of the relevant High Court Rules that govern the filing of

affidavits in a language other than English, and the procedure around the giving of evidence in te reo Māori.

[2] Rule 1.11 of the High Court Rules 2016 (HCR) provides that if a person wishes to speak Māori, or to call a witness to give evidence in Māori in court, that person “must file and serve every other party to the proceeding a notice of his or her intention to speak Māori”. HCR 1.11(4) provides that the notice must be in form G 12.

[3] HCR 1.11(5) requires the notice to be filed and served not less than 10 working days before the hearing at which the party or witness wishes to speak in Māori.

[4] Although HCR 1.11 provides a broad right to speak Māori in court (subject to the giving of notice), the rules governing the filing of affidavits in te reo Māori are more restrictive.

[5] HCR 1.15 regulates the filing of affidavits in a language other than English. HCR 1.15(2) provides:

“The non-English language affidavit must be accompanied by an affidavit by an interpreter to which is exhibited–

- (a) a copy of the non-English language affidavit; and
- (b) the interpreter’s translation of the non-English language affidavit.

[6] In spite of the apparent mandatory nature of this wording, it does appear that the Court has some residual discretion and has the power to direct that a document in Māori be accepted and will do so if this is sensible and practicable.¹

[7] In these proceedings, an affidavit has been filed in support of the claim by Ngāti Ira o Waioweka. One version is in Māori and the other in English. Both affidavits are sworn by the deponent.

[8] While this does not strictly comply with the requirements of r 1.15, unless any other party to the proceeding objects, the Court proposes to accept this affidavit for filing.

¹ See *Ngaheue v MAF* (1992) 5 PRNZ 201, Fisher J.

[9] Counsel appearing at the case management conference scheduled for 19 March 2020 should be prepared to indicate to the Court whether their clients take any objection to the slight departure from the requirements for affidavits in te reo Māori outlined above.

[10] In order to make appropriate arrangements for translators, counsel should also be prepared to advise the Court of the name and number of their witnesses who propose giving their evidence orally in te reo Māori.

Churchman J