IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

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

CIV-2017-485-512

IN THE MATTER OF	the Marine and Coastal Area (Takutai Moana) Act 2011
AND	
IN THE MATTER OF	an application by CLETUS MAANU PAUL for an order recognising Customary Marine Title and Protected Customary Rights

On the papers:

Counsel: J Mason for Applicant

Minute: 11 March 2020

MINUTE (NO. 6) OF CHURCHMAN J
["National Claims"]

Background

[1] This application is one of two so-called "National" claims.[1]

[2] The applicant, Mr Paul, originally lodged a claim purportedly on behalf of "All Māori" and covering all New Zealand.

[3] Because the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) does not provide for claims to be made on behalf of "all Māori", the Court has issued a number of minutes attempting to clarify which applicant group the claims were being advanced in respect of, and what particular area the claims related to.[2]

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1 The other is CIV-2017-404-538 re an application by R Dargaville.

2 Section 9 of the Act defines an applicant group as one or more iwi, hapū or whānau groups that seek recognition under Part 4 of the Act of their protected customary rights (PCR) or a customary marine title (CMT), or both.

The amended claim

[4] On 4 March 2020, Mr Paul filed what was described as a first amended application for recognition orders. That application went some way to providing the detail as to the actual claimant in the area being claimed so as to comply with the Act.

[5] However, the claim persists in advancing a claim on behalf of "all Māori" although this has, in places in the documentation, been refined to refer to "All Māori not already represented in customary title proceedings under the Act, over those parts of the MCA of Aotearoa New Zealand which they whakapapa to."

[6] Although some details were provided in relation to eight other specified claimants, no details were provided in respect of the residual claimants said to be covered by the description of "All Māori not already represented in customary title proceedings under the Act …". Neither were any maps filed which could identify any areas that might be the subject of such claims.

[7] As the Court has indicated in a number of prior minutes,[3] there are some threshold jurisdictional requirements that need to be met before an application can be valid.

[8] That part of Mr Paul's claim that does not identify an applicant group as defined by s 9 of the Act, nor the boundaries of any claims that might be advanced by such a group, on the face of things, does not comply with the Act.

[9] The Act contained a six-year time limit for the bringing of applications. That time limit has long since passed. It is unfair to applicants who have brought claims within the time limit to face uncertainty as to whether future claims may be filed which affect them.

[10] The issue of whether this part of Mr Paul's claim is properly made in accordance with the Act needs to be determined.

[11] Accordingly, I have allocated the date of 28 May 2020 for a one-day fixture where the Court will consider whether the part of Mr Paul's application referred to in [6] above should be struck out pursuant to r 15.1 of the High Court Rules 2016.

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3 Most recently Minute (No. 5) of Churchman J ["National Claims"] dated 3 March 2020 in CIV-2017-404-538.

[12] I direct that Mr Paul's submissions are to be filed and served no later than 30 days prior to the fixture date, with the submissions of any parties in support of a strike-out to be filed and served no later than 15 days prior to the hearing.

[13] The hearing will take place in the High Court in Wellington.

Churchman J