

**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 and B Cunningham for Whakatōhea  
(CIV-2011-485-817), Turangapikitoi and Ohiwa  
(CIV-2017-485-375), Pakowhai Hapū (CIV-2017-485-264),  
and Te Whānau a Apanui (CIV-2017-485-278)  
A Sykes and J Chaney for Ngāti Ira o Waioweka Rohe  
(CIV-2017-485-299)  
T Bennion for Ngāti Patumoana (CIV-2017-485-253)  
R Siciliano for Te Whānau a Mōkomoko (CIV-2017-485-253)  
(by memorandum only)  
R Zwaan and S Alexander for Te Upokorehe  
(CIV-2017-485-201)  
N Coates for Te Whānau a Apanui (CIV-2017-485-318)  
R Clark for Te Hapū Titoko o Ngai Tama (CIV-2017-485-262),  
Te Hapū Titoko o Ngai Tamahau (CIV-2017-485-377), and  
representing T Castle for Ngai Taiwhakaea (CIV-2017-485-185)  
J Lewis for Te Whānau a Harawaka (CIV-2017-485-238)  
J Pou for Whakatōhea Māori Trust Board (CIV-2017-485-292)  
(by memorandum only)  
S T Webster for Ngāti Awa (CIV-2017-485-196)  
(by memorandum only)  
E Rongo for M Jones for Ririwhenua Hapū (CIV-2017-485-270)  
C Davis for Ngāti Muriwai (CIV-2017-485-269)  
M Exton for Sunchaser Investments and Waihou Bay Sports  
Fishing Club (Interested Party)  
M Jones for Whakatane District Council (Interested Party)  
T Reweti for Bay of Plenty Regional Council and Opotiki District  
Council (Interested Party)

B Scott and S Roberts for Seafood Industries Representatives  
(Interested Party)  
A C Dartnall for Landowners Coalition Incorporated  
(Interested Party) (by memorandum only)  
R Roff and D Ward for Attorney-General (Interested Party)

Minute: 21 April 2020

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**MINUTE (NO. 11) OF CHURCHMAN J**

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[1] Following a case management conference held on 19 March 2020, the Court issued a minute in this matter dated 30 March 2020 which set out amendments to the timetable directions leading to the scheduled hearing to commence in October 2020.

[2] Prior to the CMC, counsel for the applicant had served a revised map and during the course of the CMC indicated that a further revised version would be filed in approximately three weeks' time.

[3] That three-week period has come and gone with no revised map being filed and served.

[4] By memorandum dated 16 April 2020, counsel for the Attorney-General sought a direction that the applicant file an updated map and an amended application reflecting that map by 30 April 2020.

[5] The current application area map filed with the Court by the applicant in June 2019 shows a different area to the one described in the current written application (dated 18 May 2015). The written application does not make the distinctions between areas of shared interests or exclusive interests that now appear to be part of the application. It is necessary for the application and map to be congruent, and for the areas where the interest are claimed to be shared and those where they are claimed to be exclusive, to be clearly identified.

[6] The grounds relied upon in support of the application were that such a direction was necessary to provide parties with certainty in their preparation for the hearing.

[7] Counsel for the Attorney-General noted that the 30 April 2020 date was consistent with the Court's current timetable which anticipated that applicant interested parties will file a memorandum regarding pūkenga by that date.

[8] Other counsel who appeared at the CMC expressed concern at the lack of clarity as to the boundaries of the claim in the latest map then filed.

[9] Fairness requires that the applicant file the amended map that was promised during the 19 March 2020 CMC.

[10] The parties who have yet to file their evidence need to know exactly where the boundaries of the claim are.

[11] Accordingly, I direct that the applicant file an updated map and an amended application reflecting that map by 5:00 pm, 30 April 2020.

[12] Another issue canvassed at the CMC was the extent to which overlapping parties would actually be advancing their claims in respect of the overlapping areas or simply responding to the applicant's claims.

[13] Counsel for overlapping claimants were asked to indicate which category their client fell into.

[14] By memorandum dated 16 April 2020, counsel for the Attorney-General sought a direction that counsel for overlapping applicants indicate by 13 May 2020 whether they are seeking to have their application (to the extent that it overlaps with the Whakatōhea application) heard and determined by the Court at the August hearing, or whether they simply wish to pose the applicant's application.

[15] Counsel for overlapping claimants have now had considerable time to consider this issue. It is appropriate that the applicant and other interested parties such as the Attorney-General know which of the cross-applications will actually be proceeding in August and which will not.

[16] Accordingly, I direct that all cross-applicants file and serve a memorandum no later than 5:00 pm on 13 May 2020 confirming whether or not they wish to have that part of their application that overlaps with the application heard and determined by the Court at the August hearing, or whether they will be appearing to oppose the applicant's claim.

**Churchman J**