

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

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

**CIV-2017-485-280
CIV-2017-485-296
CIV-2017-485-295**

IN THE MATTER OF the Marine and Coastal Area
 (Takutai Moana) Act 2011

AND

IN THE MATTER OF applications by Te Rūnanga o Ngāi Tahu
 on behalf of Ngāi Tahu Whānui
 (CIV-2017-485-280); Melvin Hutchinson
 Herbert Cain, Jasmine Kay Waitiri Stewart
 and Christian Wayne Fife on behalf of the
 landowners of the Ruapuke Island Group
 (CIV-2017-485-296); and Colin Wayne
 Topi on behalf of Te Whānau o Topi
 (CIV-2017-485-295)

On the papers:

Counsel: R E Brown and G F Dawson for Te Rūnanga o Ngāi Tahu
 J Inns for Ruapuke Island Group
 R Fife for Te Whānau o Topi

Minute: 16 June 2020

MINUTE (NO. 16) OF CHURCHMAN J

[1] Following the Court's minute in relation to the 2020 case management conferences (CMC),¹ the above three applicants have filed memoranda.

CIV-2017-485-280 – Ngāi Tahu Whānui

[2] Counsel's minute confirms that direct engagement with the Crown under s 95 of the Act remains the applicant's objective.

¹ Marine and Coastal Area (Takutai Moana) Act 2011, minute of Churchman J, 22 May 2020.

[3] A copy of the Crown's draft Engagement Strategy was filed the memorandum which indicated that other than the Tītī/Rakiura/Foveaux Strait area, the Crown would not be engaging with Ngāi Tahu until between 2027 and 2035. If the Crown maintained that position when the final version of the Engagement Strategy was released, the memorandum indicated that the applicant may well shift its focus from direct engagement to proceeding with the High Court application.

[4] A request for a further 12-month adjournment was made in the hope that the timeframes for direct engagement with the Crown will have been finalised.

[5] On the basis that there were no outstanding issues that required addressing, the applicant sought leave for their appearance to be dispensed with at the 1 July 2020 CMC.

[6] In these circumstances, it is appropriate for the Court to grant both the 12-month adjournment and to dispense with counsel's requirement to attend the CMC of 1 July 2020.

CIV-2017-485-296 – Ruapuke Island Group

[7] Counsel's memorandum also recorded that the applicant's preference was to engage directly with the Crown. Some preliminary discussions with Crown officials had taken place but had apparently paused as a result of the COVID-19 restrictions. The applicant is awaiting advice from the Crown as to when the consultation process will recommence.

[8] Counsel repeats an earlier request that the proceedings be adjourned *sine die*.

[9] The memorandum also requested that, if the 1 July 2020 CMC progressed, that counsel be permitted to attend by way of AVL link unless other cross-applicants did not seek timetabling directions or directions are made on the papers. In that latter circumstance, counsel seeks to be excused from attending the CMC.

[10] The Court is not prepared to adjourn this application *sine die*. It is important that the Court retain control over the progress of the applications so that applications are not simply parked and forgotten about.

[11] However, this is an appropriate case for a 12-month adjournment, and that is accordingly granted.

[12] To date, not all those applicants whose applications are to be called at the 1 July 2020 CMC have filed memoranda. No applicant has sought a timetable order. On the assumption that that will remain the case, counsel's attendance at the CMC is excused. The Court will in due course issue a minute recording the outcomes of all CMCs.

CIV-2017-485-295 – Te Whānau o Topi

[13] The Whānau o Topi also have a preference of direct engagement with the Crown. The memorandum indicates that they are continuing meaningful dialogue with overlapping claimants. They express frustration at the delays in advancing the Crown Engagement process. They seek a 12-month adjournment to pursue Crown engagement, and also wish to be excused attendance at the CMC.

[14] Once again, it is appropriate for this application to be adjourned, and for attendance at the 1 July CMC to be dispensed with.

Churchman J