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

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

**CIV-2017-485-512**
**[2020] NZHC 2039**

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| 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 |

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| Hearing: | 23 July 2020 |
| Counsel: | K Anderson and M Dicken for Maungaharuru-Tangitū Trust<br>C Hockly for Rongomaiwahine Trust<br>Y Moinfar-Yong and R Budd for Attorney-General<br>J Mason for C M Paul |
| Judgment: | 12 August 2020 |

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**JUDGMENT OF CHURCHMAN J**

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## Background

[1] The application by Cletus Maanu Paul (Mr Paul) for orders under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) is one of two so-called national applications.[1]

[2] The application to strike-out the claim by Mr Paul was the second of the two strike-out applications heard in the High Court at Auckland on 23 July 2020. The issues raised in both strike-out applications were similar, although not identical.

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[1] The other is the application by Rihari Dargaville, CIV-2017-404-538.

[3] This case should be read in conjunction with the decision in *Re Dargaville*.[2]

[4] Where the issues in this case are identical to those considered by the Court in *Re Dargaville*, I will attempt to summarise the relevant findings from *Re Dargaville*, although inevitably there will be some duplication and overlap in this judgment.

**The application**

[5] Mr Paul's application was dated 3 April 2017. Although the application refers throughout to the "applicants", the only applicant listed by name was Mr Paul himself.

[6] The application is said to be made by Mr Paul:

> … for orders pursuant to s 98 of the Act to recognise the customary marine title ("Title") on behalf of all Māori ("the Applicants") in the marine and coastal area ("the MCA") as defined in the Act over the entire MCA of Aotearoa New Zealand ("the Application Area").

[7] Under the heading "The Applicant Group", the application said:

> The Applicants claim ownership over the Application Area based on their firm belief that they hold and exercise tino rangatiratanga, over the entire MCA of Aotearoa New Zealand and have done so since time and memorial up until 1840 and since 1840, substantially uninterrupted.

[8] The area covered by the application was said to be:

> The area to which this Application relates is the entire area of the MCA of Aotearoa New Zealand, as defined in the Act, and includes: all islands to the outer limits of the territorial seas; and, the CMA surrounding all islands and reefs lying offshore from the coastline to a distant of 12 nautical miles; and, the entire foreshore and territorial orders of Aotearoa New Zealand.

[9] The application concluded with a paragraph which reads:

> The Applicants respectfully seek leave to reserve the right to amend this Application, including: amending its nature and scope; and, by adding additional parties.

[10] Mr Paul filed an affidavit in support of the application. It was sworn on 4 April 2017, the date after the expiry of the time limit for filing applications. The affidavit

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2 *Re Dargaville* [2020] NZHC 2028.

referred to Mr Paul's role as Chairperson of the Mataatua District Māori Council (Mataatua DMC) and his position as Co-Chairperson of the New Zealand Māori Council (NZMC). It also referred to the functions of the NZMC which was established under the Māori Community Development Act 1962 (MCDA) specifically to s 18 of that Act and the advocacy role of the NZMC in relation to Māori. The affidavit said:

> We therefore consider that we are the appropriate entity, and are best placed, to apply for Title on behalf of all Māori in Aotearoa New Zealand over the Application Area.

[11] The "we" being referred to in this paragraph seems to refer to the NZMC although that is not explicitly stated.

[12] The affidavit goes on to refer to the functions and role of the Mataatua DMC. It asserts that the functions of the Mataatua DMC, under s 16 of the MCDA, were identical to the functions of the NZMC and provided the Mataatua DMC with an overarching advocacy role. The Mataatua DMC was not described as an applicant, nor was there any explanation of what role they would have in connection with the application, or the basis upon which they were authorised to represent applicants, especially those outside of the Mataatua district.

**The deficiencies**

[13] As is detailed in *Re Dargaville*, there are a number of prescriptive requirements in the Act for a valid application. An application can only be made on behalf of an "applicant group";[3] applicant group is defined as being either an iwi, hapū or whānau;[4] an application must provide a description of a particular area of the common marine and coastal area to which it relates;[5] it must name the person who is proposed as the holder of the order;[6] and all applications must be filed no later than six years after the commencement of the Act (i.e. by no later than 3 April 2017).[7] Mr Paul's application met none of these mandatory requirements.

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3 Marine and Coastal Area (Takutai Moana) Act 2011, s 101(c).
4 Section 9.
5 Section 101(d).
6 Section 101(f).
7 Section 100(2).

[14] The applicant also made specific reference in both the original application and its final amended version, to prospective future amendments including amendments to the nature and scope of the application and adding additional parties. This was a direct challenge to the requirement that all applications had to be filed not later than six years after the commencement of the Act.[8]

**The response**

[15] Unsurprisingly, the filing of the two so-called national applications by individual members of the NZMC purporting to make claims under the Act for the whole of New Zealand, seeking an order that customary marine title be held by either the NZMC or individual members of the NZMC, caused some consternation. The NZMC itself filed memoranda dated 30 May 2017 and 18 August 2017 confirming that the NZMC had not authorised either of these applications, had no involvement with them, and had also made directions that no District Māori Council could lawfully be involved in any such application.

[16] By notice dated 9 March 2018, the Attorney-General requested further particulars of the application. By response of 16 March 2018, counsel for Mr Paul filed a memorandum stating that the application was "brought on behalf of all Māori and, therefore, on behalf of all whānau, hapū and iwi". No individual applicants or particular areas claimed were identified.

[17] On 10 April 2018, the Attorney-General filed a notice of appearance in respect of the application which, amongst other things, asserted that the application did not comply with s 101 of the Act.

[18] During the case management conferences (CMCs) held around the country in 2019, many counsel raised their concerns about this application and that of Mr Dargaville. Mr Paul said that his application was protective in the sense of providing the means by which potential applicants who had missed the filing deadline could continue to advance an application. However, in situations where iwi, hapū, or whānau had already authorised their own representatives to advance claims for CMT

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8 See s 100(2).

or PCR, and such applications had been lodged in compliance with the requirements of the Act, the other applicants submitted that the two national applications presented an unwanted and unwelcome interference. There was concern by applicants that having to deal with these applications unnecessarily absorbed the time of those applicants and depleted their meagre financial resources.

[19] In an attempt to assist the two applicants to properly identify who their claims were being advanced on behalf of, and to describe the specific nature of their claims, the Court issued a number of minutes.[9]

[20] Counsel for Mr Paul made several responses to these minutes. On 25 August 2019, counsel filed a memorandum (not an amended application) that identified seven separate claims that were being advanced in respect of certain parts of the New Zealand coastline but no maps identifying the boundaries of the various claims were filed, nor was any affidavit filed containing the mandatory information required in respect to an application.

[21] On 18 November 2019, counsel for Mr Paul filed a further memorandum and index, again, without filing any amended application.

[22] Unlike the other national applicant, Mr Dargaville, Mr Paul never relinquished his claim to be able to pursue a claim on behalf of all Māori for all of New Zealand and to be able to add additional claimants in the future as he saw fit.

[23] As the Court noted in its minute of 30 January 2020 at [22], Mr Paul's position was that the separate claims foreshadowed in the various memoranda filed, were supplemental to his original claim rather than in substitution for it.

[24] On 4 March 2020, Mr Paul filed an amended application which continued to advance a claim on behalf of "all Māori" and/or "all Māori not already represented under the Act" in respect of unspecified parts of the New Zealand coastline. There

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9 Minutes of Churchman J dated 25 July 2019, 18 September 2019, 30 January 2020 and 5 May 2020.

was no public notification of any of the claims in the amended application as required by s 103 of the Act.

[25] On 21 May 2020, Mr Paul filed a second amended application which identified the applicants as himself "in conjunction with" 13 other individuals. None of those individuals had been identified in the original application. Again, there was no public notification of the new aspects of the application and the specific areas to which the application related. Mr Paul continued to assert the right to amend the nature and scope of the application including adding additional parties at any stage in the future.

[26] In a memorandum dated 29 May 2020, counsel for Mr Paul claimed that the Attorney-General was advancing "new" grounds in support of his application to strike-out and submitted that this could only be done if the Attorney-General made a formal application in accordance with the High Court Rules (HCR).[10]

[27] Given the insistence of counsel for Mr Paul that a formal application was required, the Court directed that the Attorney-General formally file an interlocutory application recording the grounds upon which a strike-out was sought. The Attorney-General did that by interlocutory application of 18 June 2020 supported by an affidavit of 18 June 2020.

**Arguments at hearing**

[28] Two applicants directly affected by the final amended application of Mr Paul appeared at the strike-out hearing. These were the Rongomaiwahine Trust (RT), represented by Mr Hockly, and the Maungaharuru-Tangitū Trust (MTT), represented by Ms Anderson and Mr Dicken.

[29] The submissions on behalf of RT noted that an application on behalf of all of the hapū and whānau of Rongomaiwahine iwi was filed as long ago as 2011 by duly authorised hapū and whānau representatives.

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[10] The claim that the matters of concern raised by the Attorney-General were "new" with the implication that the applicant was taken by surprise, is unfounded. The Attorney-General's amended notice of appearance dated 10 April 2018 had comprehensively set out the grounds upon which the Attorney-General submitted that the application was defective.

[30] By way of summary, the submission on behalf of RT was that Mr Paul's application should be struck out because:

(a) the application, as initially filed, had no chance of success;

(b) High Court Rule 15.1 governing the dismissal of court proceedings by strike-out applied; and

(c) the "placeholder" aspect of the Application was an abuse of process and ultimately rendered the application redundant.

[31] In addition to the grounds relied upon by the Attorney-General, RT also submitted that the amended application should have provided all the necessary details required by s 101, been served on RT and been publicly notified, and this was not done. Neither had it been served on the local authorities in the rohe of RT.

[32] The submissions on behalf of MTT also endorsed the arguments put forward by the Attorney-General and submitted that in the second amended application of 21 May 2020, while Mr Paul was identified as an applicant, no area was specified as being his application area.

[33] In summary, it was submitted by RT and MTT that the original application in 2017 was invalid, not meeting the jurisdictional requirements of the Act; the deficiencies could not now be fixed because the original application was a nullity and a nullity could not be amended, and that the second amended application was now a different application comparable to a new cause of action because it introduced new applicants and new specified application areas and was therefore time-barred.

[34] The submissions also noted that no affidavit evidence at all was filed with the first or second amended applications which introduced new claims on behalf of new applicants.

[35] In respect of the claims advanced by Mr Paul on behalf of Evelyn Ratima and the Reti whānau, it was submitted by counsel for MTT that they were already represented by MTT and included in proceedings under the Act. It was also submitted

that in addition to the applications being advanced on behalf of these two crossing over entirely with MTT's application, the application being advanced on behalf of Mrs Ratima overlapped another application Mr Paul wished to pursue on behalf of Hillary Seymour. It was submitted that responding to these new applications would require MTT to prepare extensive new evidence.

[36] The Attorney-General advanced similar submissions to those made in *Re Dargaville*. It was submitted that the purpose of filing an application as a "placeholder" to circumvent the time limits in the Act was an "improper purpose"; that the second amended application, in persisting with its claim to be on behalf of all Māori was in breach of the requirements of the Act as to the identity of applicant groups; that the prescriptive detail required by s 103 had not been provided; that the amended causes of action sought to introduce fresh causes of action; and that the pleadings were otherwise an abuse of the process of the Court.

[37] In submissions on behalf of Mr Paul, Ms Mason referred to Mr Paul's longstanding membership of NZMC and Mataatua DMC and the statutory obligations of those bodies. The submissions did not address the fact that the claim was not made on behalf of either the NZMC or the Mataatua DMC and the NZMC had specifically disavowed any involvement with or authorisation for Mr Paul to advance a claim on behalf of either body.

[38] A fundamental justification advanced for Mr Paul's claim was that he had obligations to pursue such a claim arising from both s 18 of the MCDA and, in respect of his role with the Mataatua MDC, obligations arising under s 16 of the MCDA. Neither of these submissions is correct.

[39] Section 18 of the MCDA lists what the general functions of the NZMC are. It does not confer any obligations or responsibilities on individual members of the NZMC. It was unchallenged that Mr Paul was not authorised to act on behalf of the NZMC in this matter. The same comments apply to s 16 of the MCDA. It says:

> Each District Māori Council shall, in relation to the Māoris within its District, have the functions conferred on the New Zealand Māori Council by subsection (1) of section 18.

[40] Again, it is the Council as a whole, not individual members, that is being referred to and such functions as are authorised, are clearly limited to Māori residing within that district. Section 16(2) of the MCDA also specifically provides that:

> Each District Māori Council shall be subject in all things to the control of the New Zealand Māori Council and shall act in accordance with all directions, general or special, given to it by the New Zealand Māori Council.

[41] There was no challenge by Mr Paul to the statement in the memorandum filed on 18 August 2017 by NZMC stating that the NZMC had directed that no DMC was to be involved in any applications under the Act.

[42] Ms Mason also objected to the involvement of MTT and RT:

> … being joined as parties to the proceeding on the basis that they did not raise any valid issues over and above the grounds the Attorney-General had raised and that the issues which they had raised which differ from the grounds raised by the Attorney-General all relate to the objections to having an overlapping application.

[43] The Court had dealt with this objection in its minute of 16 July 2020. As parties directly affected by aspects of Mr Paul's second amended application, both MTT and RT were entitled to participate in the strike-out hearing.

[44] Ms Mason acknowledged that where a claim has been amended, it will be statute-barred if it introduces a fresh cause of action after the statutory time to do so has passed. She submitted that the Court should consider only the second amended application and not the issue of whether the original application was a nullity. She submitted that "the main issue before the Court is whether the filing of an omnibus application, and its later amendment are permissible under the MACA Act."

[45] In relation to the argument that it was an "improper purpose" to have filed the original application in order to circumvent the statutory deadline, Ms Mason submitted that the Act permitted an application if the predominant and sole purpose was to bring a claim "on behalf of all Māori", for the benefit of that group. This submission does not engage with the provisions of s 100(2) of the Act which states that:

> Any application must be filed not later than six years after the commencement of the Act, and the Court must not accept for filing or otherwise consider any application that purports to be filed after that date.

[46] Neither do the submissions engage with the fact that "all Māori" are not a claimant group identified under the Act as having an entitlement to advance a claim.

[47] Ms Mason refers to s 9(1)(b) of the Act which under the definition of applicant group specifies that it:

> Includes a legal entity (whether corporate or unincorporated) or natural person appointed by one or more iwi, hapū, or whānau groups to be the representative of that applicant group and to apply for, and hold, an order or enter into an agreement on behalf of that applicant group.

[48] The reference to s 9(1)(b) ignores the requirement in that subsection for one or more iwi, hapū or whānau group to have appointed the legal entity or natural person to apply for and hold an order. The original application by Mr Paul did not identify any iwi, hapū or whānau group that had authorised him to be their representative or to hold an order on their behalf. Neither has he ever claimed that, at the time the application was filed, he had any such authorisation. Section 9(1)(b) is therefore inapplicable. Even in respect of the supplementary claimants referred to in the second amended application, there is no statement that any of them have authorised Mr Paul to hold an order on their behalf.

[49] In response to the submission that the amendments to the original application materially changed it, Ms Mason submitted:

> Essentially the amendment seeks to replace the M Paul National App with eight discrete claims to different parts of the CMA by 13 individuals who were not named in the original M Paul National App.

[50] Ms Mason also referred to *Re Tipene*[11] claiming that the amendments by Mr Paul were merely refinements to the application and that its nature had not changed. Ms Mason referred to the Court of Appeal decision in *ISP Consulting Engineers Ltd v Body Corporate Ltd 89408*[12] for the proposition that for an amendment to be materially different so as to amount to a new cause of action, it had

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11 *Re Tipene* [2015] NZHC 169.

12 *ISP Consulting Engineers Ltd v Body Corporate Ltd* [2017] NZCA 160.

to involve a new different legal basis for a claim that was not put forward earlier. She submitted that:

> Here the cause of action is the same. It does not materially differ from the original application. There are no new causes of action. Mr Paul still seeks the same remedy, which is an order recognising CMT.

[51] These submissions are untenable. The original claim advanced by Mr Paul was on behalf of all Māori as a single group. It was not a claim advanced on behalf of an iwi, hapū or whānau, and no particular area of the common marine and coastal area was identified. It also did not, as was required by s 103(2)(d) specifically name the person who was proposed as the holder of the order.

[52] There is nothing in the MCDA which authorises Mr Paul, as an individual, to commence an application under the Act. Mr Paul was not authorised to act on behalf of NZMC. In respect of the claim that he was somehow acting on behalf of the Mataatua DMC, in accordance with s 16(2) of the MCDA, the NZMC had directed that no DMC be involved in any application under the Act.

**Treaty of Waitangi arguments**

[53] It is submitted on behalf of Mr Paul that a broad interpretation of s 107 would require the Court to exercise its discretion under that provision, and under its inherent jurisdiction, in a manner which was consistent with the Treaty of Waitangi and brought "considerations of justice for Māori groups to the forefront…". Ms Mason further submitted that while r 15.1 of HCR set out similar criteria for a strike out application, the importance of the Treaty of Waitangi in all proceedings under the Act distinguish the current case from other cases decided under r 15.1.

[54] In *Ngaronoa v Attorney-General*, the Court of Appeal traversed the relevant case law on the application of the Treaty of Waitangi to statutory interpretation.[13] While affirming the observations of Cooke P in *New Zealand Māori Council v Attorney-General* set out in the submissions of Ms Mason, the Court also referred to

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[13] *Ngaronoa v Attorney-General* [2018] NZCA 351. The case was appealed to the Supreme Court, but leave was not granted for the ground of appeal concerning the Treaty of Waitangi and statutory interpretation.

*Barton-Prescott v Attorney-General*, where it was accepted that the principles of the Treaty of Waitangi could be deployed in statutory interpretation regardless of whether the statute expressly provided for it:[14]

> We are of the view that since the Treaty of Waitangi was designed to have general application, that general application must colour all matters to which it has relevance, whether public or private and that for the purposes of interpretation of statutes, it will have a direct bearing whether or not there is a reference to the [T]reaty in the statute. We also take the view that the familial organisation of one of the peoples a party to the [T]reaty, must be seen as one of the taonga, the preservation of which is contemplated. Accordingly we take the view that all Acts dealing with the status, future and control of children, are to be interpreted as coloured by the principles of the Treaty of Waitangi. Family organisation may be said to be included among those things which the [T]reaty was intended to preserve and protect. Since we are satisfied that the wording of the Acts with relevance to this proceeding is such that there is no conflict with Treaty principles, indeed there are a number of provisions which directly incorporate those principles and there is certainly nothing contrary to that in the Guardianship Act itself, we are not therefore confronted with and do not comment on the situation which might arise where a statutory provision was seen to be in conflict with the Treaty of Waitangi or related principles.

[55] The Court of Appeal then confirmed that:[15]

> Today it can be stated with confidence that, even where the Treaty is not specifically mentioned in the text of particular legislation, it may, subject to the terms of the legislation, be a permissible extrinsic aid to statutory interpretation.

[56] However, the Court of Appeal ultimately concluded that the Treaty of Waitangi could not assist in the interpretation task in the circumstances,[16] referring to Ellis J's statement in the High Court decision of the same case, where her Honour held that "the *Barton-Prescott* approach can only be applied where there is an interpretative exercise that the court is able to undertake".[17]

[57] Here, the Treaty of Waitangi is expressly referred to and acknowledged in two separate provisions of the Act.

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14 *Barton-Prescott v Director-General of Social Welfare* [1997] 3 NZLR 179 (HC) at 184. This was later affirmed in *New Zealand Maori Council v Attorney-General* [2007] NZCA 269, [2008] 1 NZLR 318 and in *Ngaronoa v Attorney-General* at [44]-[46].

15 At [46] [citations omitted].

16 The case concerned the interpretation of the Electoral Act 1993 and its provisions prohibiting prisoners from voting.

17 At [51].

[58] Firstly, the purpose of the Act, set out in s 4, is described as being to:

> (a) establish a durable scheme to ensure the protection of the legitimate interests of all New Zealanders in the marine and coastal area of New Zealand; and
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> (b) recognise the mana tuku iho exercised in the marine and coastal area by iwi, hapū, and whānau as tangata whenua; and
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> (c) provide for the exercise of customary interests in the common marine and coastal area; and
>
> (d) acknowledge the Treaty of Waitangi (te Tiriti o Waitangi).

[59] Secondly, s 7 of the Act provides:

> In order to take account of the Treaty of Waitangi (te Tiriti o Waitangi), this Act recognises, and promotes the exercise of, customary interests of Māori in the common marine and coastal area by providing,—
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> (a) in subpart 1 of Part 3, for the participation of affected iwi, hapū, and whānau in the specified conservation processes relating to the common marine and coastal area; and
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> (b) in subpart 2 of Part 3, for customary rights to be recognised and protected; and
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> (c) in subpart 3 of Part 3, for customary marine title to be recognised and exercised.

[60] Given these express provisions, and the effect of *Barton-Prescott*, the Treaty of Waitangi will undoubtedly play a role in the interpretation exercise for any ambiguities in the statutory wording that may arise. However, it is clear that s 107 does not give rise to any ambiguity. Subsections (3) to (6) are almost an exact copy of r 15.1, meaning that it is difficult for the Treaty of Waitangi or its principles to be read into them so as to modify their plain and well-established meaning.

[61] Even if s 107 were ambiguous and it was appropriate to refer to the principles of the Treaty of Waitangi in interpreting it, I am satisfied that striking out this application would not infringe those principles. This is for two reasons.

[62] Firstly, it would be necessary to consider the interests of the claimants who have complied with the requirements of the Act and commenced proceedings within the statutory time limit. As submitted by counsel for RT and MTT, real issues of

prejudice arise. All applicants affected by this claim will have spent a significant period of time and effort preparing (in a manner compliant with the Act) to have their own cases heard and their own customary rights under the Act acknowledged. Any consideration of "justice for Māori groups" when considering a strike out would necessarily entail a weighing of the fact that all other applicants' claims to rights under the Act would be prejudiced by an application which on its face, is not reasonably arguable.

[63] Secondly, under s 7, the Act specifically contemplates acknowledgment of the Treaty of Waitangi through the express processes recognising protected customary rights and customary marine title set out within it. Parliament has therefore said how Treaty rights are to be given effect to. Consequently, applicants are required to follow these processes for those customary rights and interests to be acknowledged under the Act. Where an application fails to follow the mandatory requirements of the Act, the Court has no ability, within the parameters of the Act, to grant an order acknowledging those rights and interests. The Act simply does not provide for nationwide applications of this type. Nor does it contemplate fresh applications being able to be initiated after the statutory deadline.

**Conclusion**

[64] For the same reasons set out in the decision in *Re Dargaville*, the attempt to add, long after the deadline for the filing of applications had expired, new applicants who were not referred to at all in the original application and whose claims could not possibly have been identified from the wording of the original application, amounts to a material change to Mr Paul's application. It is therefore an abuse of process.

[65] The filing of an application for the specific purpose of circumventing the mandatory limit in the Act is also an improper purpose and an abuse of the process of the Court.

[66] Quite apart from these matters, and in spite of the various minutes issued by the Court, the second amended application still does not comply with some mandatory requirements of the Act. Mr Paul is still described as an applicant "in conjunction with the Second to Ninth Applicants" although no particular area that he is claiming is

referred to. In respect of none of the named applicants is there "the name of the person who is proposed as holder of the order".[18] No public notice in the area of any of the new applications has been given as required by s 103(1) and the application still concludes with a claim that the applicants are entitled to amend the nature and scope of the application including adding additional parties at any time.

[67] In respect of the positions of RT and MTT, I accept that if the second amended application was permitted to proceed, it would cause prejudice and delay to those applicants.

[68] Ms Mason has submitted that the support of the strike-out application by RT and MTT was "plainly a vexatious objection" because the Act allows for whānau, hapū and iwi to file applications. This submission ignores the fact that while the Act certainly does allow applications by whānau, hapū and iwi, it also mandates that those applications had to be filed no later than six years after the commencement of the Act. That date has long since expired.

[69] Applicants who had filed applications providing all the detail required by the Act prior to the expiry date for such applications, were entitled to know the identity of any other cross-applicants and the particular details of their claims. That is the purpose of the public notice requirements in s 103. It is unfair to all applicants (such as RT and MTT) who filed applications in time, to face the prospect of further applications by unknown parties being filed at any indefinite time in the future as Mr Paul specifically "reserves" the right to do.

[70] There is nothing vexatious about applicants who have fully and properly complied with the requirements of the Act objecting to cross-applications affecting the area of their claim filed well out of time and not in compliance with the prescriptive provisions of the Act.

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[18] Section 103(2)(d).

**Result**

[71] For these reasons, I am satisfied that all four criteria set out in r 15.1(i) and s 107(3) of the Act are met and this application is struck out in its entirety.

**Churchman J**

Solicitors:
DLA Piper, Wellington for Maungaharuru-Tangitū Trust
Hockly Legal, Auckland for Rongomaiwahine Trust
Crown Law, Wellington for Attorney-General
Phoenix Law Ltd, Wellington for C M Paul