

**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

Counsel:                  T Sinclair for Te Whakatōhea; Hiwarau C, Turangapikitoi,  
   Waiotahe, and Ohiwa of Whakatōhea; Pakowhai Hapū; and  
   Whānau a Apanui

                                 C Linstead-Panoho and T K Williams for Ngāi Tamahaua and  
   Te Hapū Titoko o Ngāi Tamahaua

                                 M Mahuika and N Coates for Te Whānau a Apanui

                                 E Rongo for Ngāti Torere and Ririwhenua Hapū

                                 C Leauga for Whānau a Te Harawaka

                                 B Lyall for Te Ūpokorehe Trust

                                 M Sinclair, M Sharp and J Waaka for Ngāti Muriwai Hapū

                                 B Tupara for Ngāti Huarere ki Whangapoua (watching brief only)

                                 R Siciliano and K Ketu for Whānau a Mokokoko

                                 K Tarawhiti for Te Rūnanga o Ngāti Awa

                                 A Sykes and J Chaney for Ngāti Ira o Waioweka Rohe, and  
   Ngāti Ruatakenga (on instruction for K Feint QC)

                                 T Bennion for Ngāti Patumoana

                                 J Pou for Whakatōhea Māori Trust Board

                                 T Castle for Ngāi Taiwhakaea

                                 H Berger for Manu Paora Whānau

Interested Parties:

R Budd for Attorney-General

A Williams for Seafood Industries Representatives

M Jones for Whakatane District Council

C Finlayson QC and A Dartnall for Landowners Coalition Ltd

Minute:                  14 August 2020

---

## MINUTE (NO. 23) OF CHURCHMAN J

---

[1] Shortly before 5 pm this evening, the Court received a one-page memorandum of counsel for the applicant seeking an adjournment of the eight-week hearing in this matter scheduled to commence at 10 am next Monday, 17 August 2020.

[2] The ground referred to by counsel for the adjournment request was described as being “the escalation of the COVID-19 situation”. It was submitted that for health and safety considerations, the hearing should be “adjourned until COVID-19 levels are returned to normal.”

[3] The current situation is that, as a result of the imposition of COVID-19 level 2 in Rotorua and level 3 in Auckland as of 11.59 am on 12 August 2020 pursuant to the COVID-19 Public Health Response (Alert Level 3 and 2) Order 2020 (the Order), Rotorua is at COVID-19 level 2.

[4] On 12 August 2020, the Chief High Court Judge issued a High Court Protocol for the operation of the High Court in regions under COVID-19 Alert Level 2. That protocol confirms that Courts are an essential service and, subject to the restrictions indicated in the protocol, the High Court would carry out all its usual scheduled work that can be safely supported. It specifically said:

Upcoming civil fixtures including those involving witnesses will, where possible, proceed as scheduled.

[5] The protocol also notes:

If counsel, or other persons required or proposing to attend the hearing (for example, a party) are at higher risk of severe illness, immune-compromised or with a relevant underlying health condition, they should not attend Court. If this applies, the presiding Judge should be advised so that the situation can be addressed.

[6] In accordance with the announcement by the Prime Minister at 5.30 pm this evening, the COVID alert level in Rotorua remains level 2. While there has been a recent COVID case detected in Tokoroa, this is connected with the known recent Auckland

COVID cluster. There is no known community transmission in Rotorua. As far as Rotorua is concerned, there has been no recent significant “escalation” in relation to COVID-19 matters.

[7] I am satisfied that there has been no recent significant change that requires this matter to be adjourned. I decline the adjournment application. Arrangements have been made for counsel and witnesses who are unable to attend the hearing in person to attend by VMR. All counsel should, by now, have communicated to Registrar, Tom Roughan, whether they or their clients will be attending by VMR and obtain the log-in details from him.

[8] Pursuant to the Order, no more than 100 people can be gathered in a defined space at any one time.

[9] In accordance with the minute of the Court,<sup>1</sup> “Counsel are to liaise with the Registrar, Mr Roughan, to identify who will be attending the hearing so that the Registrar can ensure the 100-person limit is not exceeded.”

**Churchman J**

---

<sup>1</sup> Minute (No. 22) of Churchman J, Edwards/Whakatōhea dated 13 August 2020.