

**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 and B Cunningham 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  
N Coates for Te Whānau a Apanui  
E Rongo for Ngāti Torere and Ririwhenua Hapū  
C Leauga and D Stone for Whānau a Te Harawaka  
B Lyall for Te Ūpokorehe Trust  
M Sinclair, M Sharp and J Waaka for Ngāti Muriwai Hapū  
C Hirschfeld for Ngāti Huarere ki Whangapoua  
(watching brief only)  
A Warren and K Ketu for Whānau a Mokomoko  
H Irwin-Easthope for Te Rūnanga o Ngāti Awa  
A Sykes and J Chaney for Ngāti Ira o Waioweka Rohe  
K Feint QC for Ngāti Ruatakenga  
T Bennion for Ngāti Patumoana  
J Pou for Whakatōhea Māori Trust Board  
T Castle for Ngāi Taiwhakaea (watching brief only)

Interested Parties:

R Roff, R Budd and S Gwyn for Attorney-General  
A Williams for Seafood Industries Representatives  
M Jones for Whakatane District Council  
C Finlayson QC, A Dartnall and S Eldridge for Landowners  
Coalition Ltd

Minute: 21 August 2020

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**MINUTE (NO. 25) OF CHURCHMAN J**  
**[Kutarere Marae]**

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[1] By memorandum dated 14 August 2020, counsel for Barry Ruka Kiwara, on behalf of Kutarere Marae, applied for leave to participate in these proceedings as an interested party.

[2] The background is that Mr Kiwara has given notice pursuant to s 95 of the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) seeking direct engagement with the Crown with the objective of obtaining an agreement recognising protected customary rights and protected customary title within Ohiwa Harbour.

[3] The area covered by the s 95 notice overlaps with the area that is the subject of these proceedings.

[4] The application by Mr Kiwara to participate in these proceedings is out of time, and he seeks leave accordingly. Counsel for Ūpokorehe (CIV-2017-485-201), Mr Lyall, initially opposed the late application. He subsequently changed his position and withdrew his opposition on the basis that he would seek leave to file an affidavit in reply. Such leave is granted.

[5] The delay in filing the application is explained in Mr Kiwara's affidavit. It appears that he only recently became aware of the need to file a notice of appearance.

[6] The Court's approach to such applications was set out in the decision of *Rongomaiwahine Iwi v Attorney-General*.<sup>1</sup>

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<sup>1</sup> *Rongomaiwahine Iwi v Attorney-General* [2014] NZHC 2049 at [27].

[7] I am satisfied that genuine reasons exist explaining the delay and that it is in the interests of justice that Mr Kiwara be granted the status of interested party and permitted to participate in this hearing, and I so direct.

**Churchman J**