

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

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

**CIV-2011-485-821**

IN THE MATTER OF	the Marine and Coastal Area (Takutai Moana) Act 2011
IN THE MATTER OF	an application by the Trustees of the Ngāti Pāhauwera Development Trust TORO WAAKA, TUREITI MOXON, CHAANS TUMATAROA-CLARKE, REX ADSETT, GERALD ARANUI, AMIRIA TOMOANA and TOM KEEFE on behalf of NGĀTI PĀHAUWERA for Customary Marine Title, Wāhi Tapu Protection and Protected Customary Rights

On the papers:

Counsel: R N Smail, E A James and B Saldanha for Trustees of the  
Ngāti Pāhauwera Development Trust  
M Mahuika, L Underhill-Sem and T Afoa for Ngāti Pārau  
G S G Erskine, D C F Naden, S M Yogakumar and M Sreen for  
Ngāi Tahu ō Mōhaka Waikare  
K Anderson, A Buchanan and M Dicken for Maungaharuru-Tangitū  
Trust  
B Lyall and L Thornton for Mana Ahuriri Trust  
H P Harwood for Hawke's Bay Regional Council  
M Williams for Pan Pac Forest Products Limited  
R Roff, R Budd and S Gwynn for Attorney-General

Minute: 13 May 2021

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**MINUTE (NO. 15) OF CHURCHMAN J**

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[1] On 7 May 2021, counsel for the Attorney-General filed a memorandum in this matter. The memorandum indicated that, as a result of developments in the recently heard Ngā Pōtiki proceedings (CIV-2011-485-793), the Attorney-General now considers that it is possible that s 5 of the Foreshore and Seabed Endowment Revesting Act 1991 may have altered the common

law position and achieved a statutory revival of customary interests in some parts of the coastal marine area within Te Whanganui ā Ōrotu and the Napier Port and Harbour areas.

[2] This development represents a change of position in relation to the submissions made by the Attorney-General at the hearing of this matter. In particular, it is relevant to the application of Ngāti Pārau.

[3] In these circumstances, it is appropriate that the Attorney-General file further submissions on this point and that Ngāti Pārau (being the only applicant potentially affected by this issue) be given a right of reply.

## **Result**

[4] The Attorney-General is directed to file and serve by **5pm Friday, 21 May 2021** further submissions on the implications of s 5 of the Foreshore and Seabed Endowment Revesting Act 1991 in relation to the claim in these proceedings by Ngāti Pārau.

[5] Ngāti Pārau are to file and serve by **5pm Friday, 28 May 2021** any submissions in reply.

**Churchman J**