

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

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

**CIV-2011-485-794  
CIV-2017-404-571  
CIV-2017-485-230  
CIV-2017-485-242  
CIV-2017-485-288  
CIV-2017-485-255  
CIV-2017-485-289  
CIV-2017-485-314  
CIV-2017-485-247  
CIV-2017-485-302**

IN THE MATTER OF      an application for recognition orders under the  
Marine and Coastal Area (Takutai Moana) Act 2011

BY                              Tangiora – Rongomaiwahine Trust  
                                    (CIV-2017-485-794)  
                                    Ngāti Oneone (CIV-2017-404-571)  
                                    Ngāti Kurupakiaka & Ors (CIV-2017-485-230)  
                                    Te Whānau a Rākairoa, Te Whānau Iritekura  
                                    (CIV-2017-485-242)  
                                    Te Rauhina Marae and Hapū (CIV-2017-485-288)  
                                    Ngā Hapū o Koronui ki te Toka a Taiau Takutai  
                                    Kaitiaki Trust (CIV-2017-485-255)  
                                    Rongowhakaata Iwi (CIV-2017-485-289)  
                                    Ngāi Tāmanuhiri Iwi (CIV-2017-485-314)  
                                    Ngā Hapū o Tokomaru Ākau (CIV-2017-485-247)  
                                    Te Whānau a Ruataupare (CIV-2017-485-302)

On the papers:

Counsel:            C Hockly for CIV-2017-485-794  
                          C Hirschfeld for CIV-2017-404-571  
                          M Mahuika and L Underhill-Sem for CIV-2017-485-230  
                          C Beaumont for CIV-2017-485-242  
                          B Lyall for CIV-2017-485-288 and CIV-2017-485-255  
                          R Smail for CIV-2017-485-289  
                          H Irwin-Easthope for CIV-2017-485-314  
                          G Erskine for CIV-2017-485-247  
                          N Milner for CIV-2017-485-302  
                          G Melvin for Attorney-General

Minute:            3 June 2021

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**MINUTE (NO. 6) OF CHURCHMAN J**  
**[Case Management Conferences 2021]**

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*CIV-2017-485-794*

[1] Mr Hockly advises that the boundaries between Ngāi Tāmanuhiri and Rongomaiwahine have now been agreed and that Rongomaiwahine are now actively directly engaged with the Crown.

[2] On that basis, this matter is adjourned for 12 months until 2022 CMCs. Counsel's attendance at the CMC on 15 June 2021 is excused.

*CIV-2017-404-571*

[3] Mr Hirschfeld records that the historical evidence is being compiled along with that of the tangata whenua witnesses. The completion date for the gathering of evidence is estimated to be the middle of 2022. The memorandum identifies four overlapping High Court applications and four overlapping Crown negotiation applications.

[4] This application is adjourned for 12 months until 2022 CMCs to enable completion of evidence and further engagement with overlapping applicants. Counsel's attendance at the CMC on 15 June 2021 is excused.

*CIV-2017-485-230*

[5] Mr Mahuika and Ms Underhill-Sem advise that evidence preparation is ongoing and that discussions are underway with an overlapping party.

[6] In order to complete evidence preparation and to facilitate the ongoing discussions with the overlapping party, this matter is adjourned for 12 months until the 2022 CMCs. The appearance of counsel at the 15 June 2021 CMC is excused.

[7] The memorandum filed by Mr Beaumont acknowledges that these applicants are caught under Schedule 2 of Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (the Ngāti Porou Act), and that Ngā Hapū o Waipiro Takutai Kaitiaki Trust (the Trust) are the mandated entity listed in the Act as managing the application of Te Whānau a Rākairoa ki Waipiro and Te Whānau a Iritekura.

[8] However, notwithstanding that acknowledgement, the memorandum says that the applicants “intend to engage with Ngā Hapū o Waipiro Takutai Kaitiaki Trust to discuss how the application of Te Whānau a Rākairoa ki Waipiro and Te Whānau a Iritekura will be managed.” This is not a matter that should continue before the Court. The Court cannot amend the Ngāti Porou Act. It has no jurisdiction to give directions to the Trust as to how it should manage the claim on behalf of Te Whānau a Rākairoa or Te Whānau Iritekura under the Ngāti Porou Act.

[9] Given the acknowledgement that the Ngāti Porou Act applies, these proceedings should be discontinued.

[10] The Court is therefore not prepared to accede to the request that they be adjourned for 12 months.

[11] In relation to counsel’s request for attendance at the 15 June 2021 CMC to be dispensed with, leave is granted to counsel to attend by AVL link (subject to the Registrar confirming with counsel that is technically feasible). Counsel will be expected to explain why these proceedings should not be discontinued.

[12] Mr Erskine advises that this matter is ready to proceed to hearing subject to clarification of the dispute as to mandate with Te Whānau a Ruataupare. If the mandate question is not resolved, the estimated time required for hearing is 17 days.

[13] In anticipation that this matter and CIV-2017-485-302 will be heard together, the Court has made tentative arrangements for a four-week hearing in the Gisborne courthouse commencing on 5 September 2022.

[14] Mr Erskine advised that a further memorandum would be filed in advance of the CMC on the issue of mandate. At the CMC, the Court hopes to be in a position to confirm the hearing date and make a timetable order for exchange of evidence and the filing of submissions.

*CIV-2017-485-302*

[15] Mr Milner advises that, notwithstanding the direction in the Court's minute of 13 April 2021, no meeting has yet occurred with the applicants in CIV-2017-485-247 to discuss the question of mandate.

[16] Ongoing discussions with Te Arawhiti are apparently occurring but it is not clear whether Te Arawhiti has formally accepted the application for direct engagement. There is no opposition to Mr Tichborne's application being set down for hearing.

[17] At the CMC in Gisborne on 15 June 2020<sup>1</sup>, the Court anticipates being updated as to progress in relation to resolving the disputed issue of mandate and to be advised whether the Crown has accepted this application as one where it is willing to engage directly.

*CIV-2017-485-255*

[18] Mr Lyall advises that the applicants have accepted an offer from the Minister for Treaty of Waitangi Negotiations to engage directly with the Crown. Accordingly, this matter is adjourned for 12 months to the next CMC in Gisborne, and counsel's appearance at the CMC on 15 June 2021 is excused.

*CIV-2017-485-288*

[19] Mr Lyall advises that there is one overlapping matter (CIV-2017-485-230) and that the respective counsel are actively working towards a joint hui of these two applicants. Significant tangata whenua research has been completed and an historian appointed.

[20] The memorandum refers to funding remaining “extremely problematic in terms of timeframe of payment and complexity of policies.” No specific assistance is sought from the Court in respect of funding.

[21] This matter is adjourned for 12 months until the 2022 CMCs. Counsel’s attendance at the 15 June 2021 CMC is excused.

*CIV-2017-485-289*

[22] Ms Smail advises that evidence preparation is well advanced and that the application could be set down for hearing in the second half of 2022. There are three overlapping applications (CIV-2017-485-284, CIV-2017-404-571 and CIV-2017-485-314). In addition, there are four neighbouring applications which “cascade” with those of the overlapping applications that counsel believe could be heard together.

[23] Of these Tāmanuhiri and Rongomaiwahine are progressing with direct Crown engagement. While Rongowhakaata is open to participating in engagement directly with the Crown, it has not received any approach from the Crown.

[24] Counsel applies to participate in the CMC on 15 June 2021 by way of AVL link. Subject to confirmation by the Registrar that this is technically feasible, that request is granted.

[25] If the matter is to be realistically allocated a hearing in the second half of 2022, there will need to be a further CMC by way of teleconference to be scheduled in early December 2021.

*CIV-2017-485-314*

[26] Ms Irwin-Easthope advises that the applicant’s preference is direct engagement and that the Crown has now invited the applicants to meet to discuss formally progressing Crown engagement. The memorandum also notes that Tāmanuhiri have now agree their respective boundaries with Rongowhakaata Iwi Trust (CIV-2017-485-289) to the north and Rongomaiwahine Iwi (CIV-2011-485-079 – Tangiora) to the south.

[27] The applicants understand that the Crown has extended direct engagement invitations to both Rongowhakaata and Rongomaiwahine.

[28] This application is adjourned for 12 months until the 2022 CMCs. Appearance of counsel at the CMC scheduled for 15 June 2021 is excused.

**Churchman J**