

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

**I TE KŌTI MATUA O AOTEAROA
WHANGĀREI TERENGA PARĀOA ROHE**

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| IN THE MATTER OF | an application for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 |
| BY | James Henare Te Tuhi QSM and the late Esmeralda Te Tuhi on behalf of Te Pōpoto ki Ōtūrei |

On the papers:

Counsel: M Sreen for CIV-2017-485-252 (Te Pōpoto ki Ōtūrei)

Minute: 28 June 2021

**MINUTE (NO. 13) OF CHURCHMAN J
[Case Management Conferences (CMCs) – Whangarei 2021]**

CIV-2017-485-252 (Te Pōpoto ki Ōtūrei)

[1] By application received late on the afternoon of Friday 25 June 2021, the applicant in this matter sought to have this matter called at the Whangarei CMC 29 June 2021.

[2] This application had been adjourned for 12 months and counsel's appearance at the CMC excused by minute dated 22 June 2021 as a result of the Court's understanding of the contents of a memorandum filed by counsel. That memorandum had also referred to an updating memorandum being filed. As at the date of the Court's minute, no such updating memorandum had been received.

[3] Following receipt of the Court's minute of 22 June, counsel filed the application of 25 June 2021 which was accompanied by a further memorandum and other documentation.

[4] Counsel has asked that this matter be called at the Whangarei CMC on 29 June 2021. That request is granted.

[5] However, the material filed with the Court on 25 June 2021 relates to two separate matters. The first is an application for correction of an error in the name of a river representing the southern boundary of the application. The Court will hear submissions on that matter and, if satisfied that no other applicant is prejudiced by the application, may make the order sought.

[6] The situation is different in relation to the second part of the application. The applicant seeks to have this application set down for hearing, and in [6](c) of the application asks the Court to make directions about:

- (a) the total area on the West Coast suitable for determination;
- (b) the overlapping applications which should also be heard;
- (c) the extent to which those applications or their applications' areas [sic] should be heard given the size of most of their overlapping applications' areas – four cover a significant part of the upper North Island, while another four also cover very wide areas and extend from one coast to the other, and all these applications are the subject of significant numbers of overlapping claims.

[7] These sorts of directions are matters that all overlapping applicants are entitled to be heard on. They are also entitled to have adequate notice of the sort of directions that are being sought. That is why the Court, in its minute of 12 May 2021 encouraged counsel contemplating seeking fixtures to communicate with neighbouring applicants. It is also why the Court required applicants to file and serve memoranda detailing what directions they were seeking from the Court by 21 May 2021.

[8] Had the Court received by 21 May 2021 an application of the type made on 25 June 2021, it would have been in a position to allocate time for it to be heard either on 29 June 2021 or some other time and, all counsel for applicants potentially affected would have been put on notice that they needed to prepare accordingly. A number of such counsel are likely not to have sought to have their appearance excused if they were aware of the type of directions now sought by this applicant.

[9] Accordingly, while the application to set down will be called on 29 June 2021, it will not be determined and the Court is likely to issue directions leading to a hearing (likely to be by AVL or on the papers) which will allow counsel for all affected applicants the opportunity to indicate whether they support or oppose the application and the grounds for their position.

Churchman J