

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

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

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

Hearing: 9 June 2021 and see also minute of Churchman J dated 31 May 2021

Counsel: T Bennion and G Davidson for CIV-2017-485-259 (Ngāti Hinewaka),
and CIV-2017-485-217 (Hunau of Tame Horomona Rehe)
M Sreen and M Yogakumar for:
CIV-2017-485-226 (Te Hika o Papaūma Marae Trustees),
CIV-2017-485-232 (Ngāi Tumapuhia-a-Rangi Hapū), and
CIV-2017-485-267 (Tukōkō and Ngāti Moe)
J Ferguson for:
CIV-2017-485-221 (Ngāti Kahungunu ki Wairarapa
Tāmaki-nui-a-Rua),
CIV-2017-485-301 (Te Awa Tupua and Ngā Hapū me
Ngā Uri o Te Iwi o Whanganui), and
CIV-2017-485-220 (Papaūma Marae Trustees)
R Siliciano for CIV-2017-485-224 (Rangitāne Tu Mai Rā Trust)
B Lyall for CIV-2017-485-273 (Te Whānau Tima and Te Hapū o
Te Mateawa)
C Beaumont for CIV-2017-485-214 (David Morgan Whānau)
N Coates and C Conroy-Mosdell for CIV-2017-485-229 (Ngāti Raukawa
ki te Tonga)
G Erskine and E Greensmith-West for CIV-2017-485-161
(Muaūpoko Iwi)
L Black for CIV-2017-485-254 (Te Pautokotoko)
C Hirschfeld for CIV-2017-404-479 (Te Atianga o Ngā Uri
o Wharekauri) and CIV-2017-404-481 (Te Hika o Papaūma)
D Edmunds for CIV-2017-485-258 (Williams)
K Tahana for CIV-2017-485-211 (Tupoki Takarangi Trust)
H Irwin-Easthope for CIV-2017-485-248 (Ātiawa ki Whakarongotai)
L Watson for CIV-2017-485-193 (Ngāti Kere Hapū)
T Castle for CIV-2017-485-309 (Ngāti Mutunga o Wharekauri Iwi
Hapū)
C Griggs for CIV-2017-485-316 (Moriōri Imi Iwi)
G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
ŌTEPOTI ROHE**

On the papers: Directions set out in the minute of Churchman J dated 28 May 2021

Counsel: R Brown and G Dawson for CIV-2017-485-280 (Te Rūnanga o
Ngāi Tahu)
J Inns for CIV-2017-485-296 (Ruapuke Island Group)
R Fife for CIV-2017-485-295 (Te Whānau o Topi)
G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
WHAKATŪ ROHE**

On the papers: Directions in accordance with the minute of Churchman J dated
31 May 2021

Counsel: T Castle for CIV-2017-485-167 (Te Rūnanga a Rangitāne Kaituna)
T Bennion and L Black for:
CIV-2017-485-171 (Riwaka Houra Whānau),
CIV-2017-485-172 (Puketapu Hapū), and
CIV-2017-485-182 (Whanganui inlet)
A Irwin for CIV-2017-485-218 (Ngāti Koata)
M Radich for CIV-2017-485-251 (Rangitāne o Wairau)
J Appleyard for CIV-2017-485-266 (Ngāi Tūāhuriri)
M Houra for CIV-2017-485-365 (Te Ātiawa o Te Waka-a-Māui)

Interested parties:
A Logan for West Coast Regional Council
G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
TŪRANGANUI-A-KIWA ROHE**

Hearing: 15 June 2021

Counsel: C Hockly for CIV-2011-485-794 (Rongomaiwahine Iwi Trust)
G Erskine for CIV-2017-485-247 (Ngā Hapū o Tokomaru Ākau)
B Lyall for:
CIV-2017-485-255 (Ngā Hapū o Kokoronui ki te Toka a
Taiau Takutai Kaitiaki Trust)
CIV-2017-485-288 (Te Rauhina Marae and Hapū)
C Hirschfeld, B Tupara and T A Thompson for CIV-2017-404-571
(Ngāti Oneone)
M Mahuika and L Underhill-Sem for CIV-2017-485-230
(Ngāti Kurupakiaka, Te Aitanga a Puata and Ngāi Tauira)

By AVL:

R Smail and K Dawson for CIV-2017-485-289
(Rongowhakaata Iwi)

N Milner for:

CIV-2017-485-302 (Te Whānau a Ruataupare ki Tokomaru),
CIV-2021-485-302 (Potikirua ki Whangaokena
Takutai Moana Trust),
CIV-2021-485-303 (Whangaokena ki Onepoto
Takutai Moana Trust),
CIV-2021-485-304 (Te Papatipu o Uepohatu me te
Papatipu o te Ngaere Takutai Kaitiaki Trust),
CIV-2021-485-305 (Whānau Hapū o Te Aitanga a
Mate Te Aowera and Te Whānau a Hinekehu
Takutai Kaitiaki Trust),
CIV-2021-485-306 (Ngā Hapū o Waipiro
Takutai Kaitiaki Trust), and
CIV-2021-485-307 (Ngāti Whakarara,
Ngāti Hau Takutai Kaitiaki Trust)
H Irwin-Easthope for CIV-2017-485-314 (Ngāi Tāmanuhiri Iwi)
C Beaumont and H McIlroy for CIV-2017-485-242 (Te Whānau
a Rākairoa, Te Whānau a Iritekura)
R Budd for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
TAURANGA MOANA ROHE**

Hearing: 16 June 2021

Counsel: A Warren and J Lewis for CIV-2017-485-793 (Ngā Pōtiki a
Tamapahore Trust)
J Mason for:
CIV-2017-485-770 (Te Rūnanga o Ngāti Whakaue
ki Maketu Inc), and
CIV-2017-485-514 (Tangihia Hapū)
C Hirschfeld for:
CIV-2017-404-480 (Ngāti Hei),
CIV-2017-404-483 (Ngāti Pū), and
CIV-2017-404-528 (Ngāti Hako)
B Cunningham for CIV-2017-404-562 (Te Uri a Tehapu)
J Kahukiwa and J Harper-Hinton for CIV-2017-404-568
(Koromatua Hapū of Ngāti Whakaue)
M Sharp for CIV-2017-485-219 (Ngāti Hē)
R Siciliano for CIV-2017-485-222 (Ngāti Tara Tokanui)
J Koning for:
CIV-2017-485-223 (Ngāti Whakahemo),
CIV-2017-485-195 (Ihakara Tangitū Reserve), and
CIV-2017-485-291 (Ngāti Makino Heritage Trust and
Ngāti Pikia Iwi Trust)
J Gear for CIV-2017-485-244 (Ngā Hapū o Ngāi Te Rangī)
T Bennion for CIV-2017-485-250 (Ngāti Pūkenga)
N Milner for CIV-2017-485-317 (Rurima Island Māori Reservation)
L Watson for CIV-2017-485-227 (Ngāti Hikakino, Ngāi Te
Rangihouhiri II and Te Tāwera)

By AVL:

I Peters for CIV-2015-485-767 (Ngā Hapū o Te Moutere o Motītī)
B Lyall for CIV-2017-404-556 (Ngāti Porou ki Hauraki)
H Irwin-Easthope for:
CIV-2017-485-196 (Te Rūnanga o Ngāti Awa),
CIV-2011-485-793 (Ngā Pōtiki), and
CIV-2011-485-817 (Te Whakatōhea)
N Tahana and A Tapsell for CIV-2017-485-294 (Ngāti Ranginui)
T Conder for Tumu Kaituna 14 Trust, Carrus Corporation Ltd,
Ford Land Holdings and Sunchaser Investments, and Port of
Tauranga Ltd
R Budd for Attorney-General

Interested parties:
M Jones for Hauraki, Thames-Coromandel and Whakatane District
Councils
T Waikato for Bay of Plenty Regional Council

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

**I TE KŌTI MATUA O AOTEAROA
KIRIKIROA ROHE**

Hearing: 22 June 2021

Counsel: H Rauputu and J Hita for:
CIV-2017-419-80 (Kawhia, Aotea and Whaingaroa Harbours),
CIV-2017-485-216 (Ngā Hapū o Mokau ki Runga), and
CIV-2017-485-209 (Mokau ki Runga Regional Management
Committee)
C Houia for CIV-2017-419-83 (Tainui Hapū o Tainui Waka)
R Siciliano for CIV-2017-404-575 (Ngaati Mahuta ki te Hauaauru)
D Stone and H Clatworthy for CIV-2017-419-81 (Ngāti Te Wehi)
J Ferguson (by AVL) for CIV-2017-419-84 (Waikato-Tainui)
G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
TE ROTORUA-NUI-Ā-KAHU ROHE**

Hearing: 23 June 2021

Counsel: A Sykes and C Houia for:
CIV-2017-485-299 (Ngāti Ira o Waiōweka Rohe), and
CIV-2017-485-292 (Ngāti Ruatakenga)
E Rongo for:
CIV-2017-485-270 (Ngāi Tai), and
CIV-2017-485-272 (Ririwhenua Hapū)
J Pou for CIV-2017-485-292 (Whakatōhea Māori Trust Board)

By AVL:
T Bennion for CIV-2017-485-253 (Ngāti Patumoana)
B Lyall for CIV-2017-485-201 (Te Ūpokorehe)
K Ketu for CIV-2017-485-355 (Te Whakatōhea
Rangatira Mokomoko)
C Linstead-Panoho for:
CIV-2017-485-377 (Ngāi Tamahau), and
CIV-2017-485-262 (Te Hapū Titoko o Ngāi Tama)

R Goble for CIV-2017-485-513 (Manu Paora Whānau)
H Irwin-Easthope for CIV-2017-485-196 (Te Rūnanga o Ngāti Awa)
T Sinclair for:
CIV-2011-485-817 (Edwards Whakatōhea),
CIV-2017-485-264 (Whakatōhea Pākōwhai),
CIV-2017-485-375 (Hiwarau C, Turangapikitoi, Waiōtahe and
Ōhiwa of Whakatōhea),
CIV-2017-485-269 (Ngāti Muriwai), and
CIV-2017-485-278 (Te Whānau-a-Apanui Hapū)

Interested parties:
M Jones for Thames-Coromandel District Council and
Whakatane District Council
G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
NGĀMOTU ROHE**

Hearing: On the papers. Minute dated 25 June 2021

Counsel: M Robinson (in person) for CIV-2011-485-797 (Ngāti Manuhiakai)
E Rongo for CIV-2011-485-803 (Okahu Inuawai Hapū)
A Webb (in person) for CIV-2011-485-814 (Kanihi-Umutahi Hapū)
M Piripi for CIV-2017-485-183 (Ngaa Rauru Kiitahi)
T Bennion for:
CIV-2017-485-210 (Araukuuku Hapū), and
CIV-2017-485-213 (Ngāti Tū Hapū)
A Irwin for:
CIV-2017-485-212 (Taranaki Iwi), and
CIV-2017-485-215 (Ngāti Mutunga)
N Milner for CIV-2017-485-310 (Te Ātiawa (Taranaki))
T Hovell for CIV-2017-404-534 (Ngāti Tama)
D Edmunds for CIV-2017-485-243 (Te Korowai o Ngaruahine Trust)
J Inns for CIV-2017-485-282 (Te Rūnanga o Ngāti Ruanui Trust)
W More (in person) for CIV-2017-485-293 (Ngāti Hāua Hapū)
C Scott (in person) for CIV-2017-485-300 (Ngāti Tamaahuroa and
Titahu Hapū and Oeo Pa Trustees)
G Melvin for Attorney-General

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

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

Hearing: 29 June 2021

Counsel: M Sreen for:

CIV-2017-404-529 (Te Whānau-ō-Rātāroa),
CIV-2017-404-577 (Ngāti Rahiri and Ngāti Kawa),
CIV-2017-404-578 (Ngāti Tara),
CIV-2017-485-233 (Ngāi Tupango),
CIV-2017-485-245 (Te Iwi o Te Rarawa ki Ahipara), and
CIV-2017-485-252 (Te Popoto ki Oturei)

T Afeaki for

CIV-2017-404-546 (Ngāti Rehua),
CIV-2017-404-579 (Ngā Hapū o Tangaroa ki te Ihu o Manaia
te atu ki Mangawhai), and
CIV-2017-485-268 (Ngā Hapū o Ngāti Kahu)

H Jamieson for:

CIV-2017-485-231 (Ngāti Hine),
CIV-2017-485-265 (Ngāti Kawa and Ngāti Rahiri),
CIV-2017-488-26 (Te Kapotai), and
CIV-2017-485-240 (Te Rūnanga Nui o Te Aupōuri)

L Thornton for:

CIV-2017-485-249 (Ngāti Kawau, Ngāti Kawhiti,
Ngāti Haiti, Ngaitupango Hapū of Whangaroa), and
CIV-2017-485-378 (Ngāti Maraeariki, Ngāti Rongo)

W McCarthy for:

CIV-2017-485-306 (Ngātiwai – Whānau o Ohawini),
CIV-2017-488-29 (Walker),
CIV-2017-485-408 (Ngā Uri o Hairama Pita Kino Davies), and
CIV-2017-485-409 (Whangaroa Ngaiotonga)

T Sinclair for:

CIV-2017-404-525 (Ngāti Manu and Ngāti Rangi),
CIV-2017-404-554 (Ngā Hapū o Ngātiwai Iwi), and
CIV-2017-404-559 (Ngāti Kahu, Te Rarawa and Te Uriohina)

M Piripi for CIV-2017-485-290 (Te Rūnanga o Te Rarawa)

A Sykes for CIV-2017-485-277 (Ngāti Manu)

Interested parties:

G Mathias for Lang's Beach Society Incorporated

J Golightly for Northport Limited

G Melvin for Attorney-General

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

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE**

Hearing: 30 June 2021

Counsel: M Chen and C Saunders for CIV-2017-404-563 (Te Rūnanga o
Ngāti Whatua)
A Sykes for CIV-2017-485-276 (Ngāti Rongo o Mahurangi)
B Lyall and L Thornton for:
CIV-2017-404-524 (Mahurangi, Ngāti Awa and Ngāpuhi),
CIV-2017-404-574 (Ngāti Rehua/Ngātiwai ki Aotea), and
CIV-2017-485-378 (Ngāti Maraeāriki/Ngāti Rongo)
A Mohamed and M Yogakumar for:
CIV-2017-404-580 (Ngāti Rehua/Ngātiwai ki Aotea), and
CIV-2017-404-518 (Ngāti Taimanawaiti)
R Jones for CIV-2017-404-520 (Ngāti Whātua Ōrākei Trust)
R Siciliano for CIV-2017-404-564 (Ngai Tai ki Tamaki)
H Andrews for CIV-2017-404-582 (Te Whānau-a-Haunui)

Interested parties:
G Melvin for Attorney-General
R Gardner for Manaia Properties Ltd

Minute: 5 July 2021

**MINUTE OF CHURCHMAN J
[Case Management Conferences (CMCs) 2021]**

General observations

The Edwards/Whakatōhea decision

[1] The most significant development over the past 12 months in relation to applications under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) has been the hearing in Rotorua of the priority Edwards/Whakatōhea application which was heard contemporaneously with some 15 overlapping applications.¹ A number of interested parties also participated in the hearing which occupied nine weeks starting in mid-August 2020.

¹ *Re Edwards (Whakatōhea No. 2)* [2021] NZHC 1025.

[2] The decision, which was issued on 7 May 2021, addressed a number of legal and technical issues which had not previously been the subject of any Court ruling. The Court accepted that the concept of “joint exclusivity” developed in the Canadian Courts could be applied under the Act although only in situations where applicants accepted that they held customary marine title (CMT) jointly with one or more cross-applicants. It was not available where overlapping applicants each contended that they exclusively were entitled to CMT.

[3] Although the Landowners Coalition, who participated as an interested party in the hearing have challenged that aspect of the decision on appeal, it was accepted by all of the applicants, and the Attorney-General, who also fully participated in the hearing as an interested party.

[4] As was done in the case of *Re Tipene*,² there will be a further or Stage II part of the hearing (in February 2022) to settle the precise terms of the CMT and protected customary rights (PCR) orders.

[5] Two other priority applications (*Re Clarkson* and *Re Ngāti Pāhauwera*) have been fully heard and are awaiting decisions. A fourth priority application, Ngā Pōtiki, has been part-heard with the balance of the hearing scheduled for September 2021.

Direct Crown engagement

[6] It has been a continuing source of frustration for those applicants who would prefer to resolve their applications by direct engagement rather than by litigation, that little or no progress has been made with the Crown not entering into any new direct engagement negotiations. The draft timetable for negotiations issued by the Crown also timetabled negotiations in some areas for as far out as 2045.

[7] In early May 2021, Minister Little announced a fresh approach to direct engagement aimed at significantly reducing the timeframes. As at the date of the various case management conferences (CMCs), counsel reported little progress.

² *Re Tipene* [2016] NZHC 3199.

[8] Given that many of the applicants who have issued proceedings under the Act would prefer direct negotiation if available, the Court's potential workload in respect of applications under the Act could be significantly impacted if substantial progress is made by the Crown in processing direct engagement applications.

Funding

[9] Many counsel also again reported issues with funding. A review of funding policy by the Crown is underway. The report of the Waitangi Tribunal in Stage I of the Wai 2660 Inquiry made observations about funding and the Stage II report is expected to also contain observations on this topic.

[10] A number of counsel have listed difficulties with funding as the reason why their client's applications have made no progress over the past 12 months.

[11] In an effort to ensure that the applications before the Court are processed in a timely and efficient manner, the Court has invited Mr Melvin, counsel for the Attorney-General, to clarify with the funding authority, Te Arawhiti, specific concerns that have been brought to the Court's attention.

[12] Te Arawhiti has helpfully co-operated and provided relevant information. In some cases, payments have been able to be expedited, and others it has been clarified that applications for reimbursement have either not been made or not made in the correct form, and in other cases it was confirmed that applications for reimbursement had been met in full. There were also a few cases where there had been a communication gap between counsel and their clients, and counsel were unaware of funding that had been received.

Availability of AVL

[13] In an endeavour to assist in the timely and economical disposal of proceedings, including the annual series of CMCs, the Court, over the past 12 months, has made extensive use of AVL technology. The Edwards/Whakatōhea and Ngāti Pāhauwera hearings were held during times of COVID-19 disruption. In both cases counsel and

witnesses were able to fully participate in the hearing by AVL notwithstanding travel restrictions that would have prevented their attendance in person for all, or part, of the hearing.

[14] The Court will continue to make available (if logistically possible) the use of AVL, particularly for attendance by counsel at CMCs.

Importance of timely memoranda

[15] As in previous years, the Court has asked counsel to file memoranda providing details of progress in respect of their client's application over the past 12 months, and also listing areas where the Court's assistance is required. The majority of counsel have filed helpful and timely memoranda. This has facilitated the Court being able to make many directions on the papers and to excuse counsel from attendance at the relevant CMCs.

[16] Unfortunately, a small number of counsel have either not filed memoranda or have not included the information requested in their memoranda. Others have filed supplementary memoranda very close to, or even on the day of, the CMC. In cases where those memoranda have sought a timetabling order toward hearing, it has not been possible to fully address the issues arising as other counsel, who, if they had known such an application was to be made, would not have sought orders in respect of their client's application on the papers, and had their appearance at the CMC excluded.

[17] Although counsel may think that filing of the requested memorandum late may have little consequence, the reality is that, at a time when the Court is having to assess literally hundreds of memoranda, a failure by even a few applicants to file appropriate memoranda in a timely fashion can have significant impacts on the effectiveness of CMCs.

Timetabling to hearing

[18] With all those priority applications where counsel have sought a hearing having been either heard or timetabled to hearing, the Court is now in a position to timetable

groups of matters that do not include priority applications towards a hearing. There is a significant advantage for applicants in having groups of overlapping applications heard at the same time. This avoids applicant groups having to prepare for, and participate in, a number of applications relating to different parts of their claim. Where there are applications that can conveniently be heard with overlapping or adjacent applications, applicants are encouraged to discuss this with other overlapping applicants and to submit proposals for joint hearing to the Court.

[19] Inevitably, hearings involving groups of applications are likely to be lengthy and require large blocks of sitting time. The size of the hearings also means that in many cases they will have to take place in hearing venues other than courtrooms because they are simply too large to be accommodated in courtrooms. These considerations contribute to there generally being a gap of several months between the setting of timetable orders and the holding of fixtures. Counsel are therefore encouraged to enter into discussion with counsel for overlapping claimants as soon as is practicable.

Wellington CMC

[20] Ms Yogakumar, for Ngāi Tumapuhia-a-Rangi Hapū, indicated that her client was in a position to proceed to a hearing and she spoke to a diagram she had produced outlining overlapping claims.

[21] Ngāi Tumapuhia are a hapū of Ngāti Kahungunu ki Wairarapa who have an overlapping claim. Mr Ferguson, for Ngāti Kahungunu ki Wairarapa, confirmed that the iwi was supportive of claims advanced by its hapū, and did not advance its claims in competition with them.

[22] Mr Ferguson advised that the iwi was advancing the claims of two hapū: Hurunui o Rangi, and Wairarapa Moana.

[23] Ms Yogakumar also represented two separate claimants: Tukōkō and Ngāti Moe. Their claim did not overlap that of Ngāi Tumapuhia but was further to the south and west.

[24] Mr Bennion, for Ngāti Hinewaka (also a hapū of Ngāti Kahungunu), advanced a claim which overlapped with all of the Tukōkō and Ngāti Moe claim and a substantial part of the Ngāi Tumapuhia claim.

[25] Ms Siciliano represented the Rangitāne Tu Mai Rā Trust whose claim overlapped all others between Lake Onoke and the northern boundary of Ngāi Tumapuhia's claim. Ms Siciliano noted that Tukōkō and Ngāti Moe were also hapū of Rangitāne Tu Mai Rā.

[26] All counsel agreed that discussion between the various overlapping claimants was required prior to a hearing occurring.

[27] There are also opportunities for joint co-operation including the possibility of sharing historical research given the overlap between the Tukōkō and Ngāti Moe, and Ngāi Tumapuhia claims with the Ngāti Hinewaka claims. Counsel are to liaise further in that regard.

[28] It is appropriate that this matter be called at a CMC in December 2021 to report on progress. At that CMC, the Court will wish to hear on the extent to which Ngāti Kahungunu ki Wairarapa and Rangitāne Tu Mai Rā support or oppose those claims of hapū that affiliate to them.

[29] Ngāti Kere Hapū (CIV-2017-485-193) also overlaps with the claims by the applicants discussed above. Mr Watson indicated that his client preferred direct engagement. He noted that funding had not yet been approved. It would be helpful if Mr Watson would liaise with the other counsel to explore resolution of outstanding issues as between the various applicants.

Outcome

[30] All of the matters discussed above in this minute will be adjourned to a date in early December 2021 which will be notified by the Registrar. The CMC on that date will proceed by way of AVL link with Wellington-based counsel having the option of attending in person.

[31] No later than five days prior to the CMC, counsel will either file a joint memorandum or separate memoranda detailing progress in discussing and resolving the issues referred to above.

[32] In particular, counsel for Ngāti Kahungunu ki Wairarapa Tāmaki-nui-ā-Rua and Rangitāne Tu Mai Rā Trust will advise the Court as to how they intend proceeding in respect of those parts of their claims that are overlapped by separate claims of their own hapū.

Other applications

[33] Counsel in CIV-2017-485-226 (Te Hika o Papaūma); CIV-2017-404-481 (Te Hika o Papaūma); and CIV-2017-485-220 (Papaūma Marae Trustees) are expected to advise the Court by 1 December 2021 what steps they have taken to resolve what appears to be a mandate issue. Where more than one representative is claiming to represent the same applicant group, issues of mandate may have to be resolved before the substantive hearing proceeds in order to minimise costs and effort to the parties.

Gisborne CMC

CIV-2017-485-242 (Te Whānau a Rākairoa, Te Whānau Iritekura)

[34] Mr Beaumont confirmed his request that this matter not be discontinued but be adjourned for a further 12 months. Mr McIlory addressed the Court in person and provided background information.

[35] Mr Beaumont acknowledged that the Court, in these proceedings under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) did not have jurisdiction to amend Schedule 2 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (the Ngāti Porou Act) which had specified Ngā Hapū o Waipiro Takutai Kaitiaki Trust as the mandated entity for Te Whānau a Rākairoa Ki Waipiro and Te Whānau a Iritekura.

[36] Mr Beaumont indicated that he wished to have the opportunity to investigate further matters which he described as possible fraud in relation to the circumstances

leading to the inclusion of the Waipiro Takutai Kaitiaki Trust in Schedule 2 of the Ngāti Porou Act.

[37] At Mr Beaumont's request, and in order for him to have an opportunity to explain to Mr McIlroy why this Court, on an application for recognition orders under the Act has no jurisdiction to amend Schedule 2 to the Ngāti Porou Act, this application is adjourned to a CMC in early December 2021. Participation will be by AVL. The Registrar will advise the parties of the date of the CMC. No later than five working days prior to the CMC, Mr Beaumont will file a memorandum addressing the issue of why these proceedings should be permitted to continue further when, as a result of the provisions of the Ngāti Porou Act, the Court would no longer appear to have jurisdiction.

CIV-2017-485-247 (Ngā Hapū o Tokomaru Ākau)

[38] Mr Erskine filed an updated memorandum. This confirmed that a Zoom meeting had been held with Mr Pewhairangi on behalf of Te Whānau a Ruataupare, but this had not resolved the mandate issue. He indicated that his client wished to proceed to a hearing on the proposed date of 5 September 2022.

[39] Mr Milner, who appeared on behalf of Te Whānau a Ruataupare (CIV-2017-485-302), confirmed that his client accepted the timetabling proposed by Mr Erskine. Ms Budd, for the Attorney-General, also confirmed that the proposed timetable was acceptable. No party wanted a preliminary hearing to address the issue of disputed mandate.

[40] I make the following timetable:

- (a) a hearing to commence in the High Court at Gisborne on **5 September 2022** and to proceed for four weeks is confirmed;
- (b) the applicant's briefs of evidence, as well as those of any interested parties other than the Attorney-General, are to be filed and served no later than **4 April 2022**;

- (c) the Attorney-General is to file and serve his briefs of evidence no later than **27 June 2022**;
- (d) any briefs of evidence in reply are to be filed and served no later than **18 July 2022**;
- (e) the close of pleadings date is **1 August 2022**;
- (f) all parties are to file and serve opening submissions no later than **22 August 2022**; and
- (g) the parties are to confer and within 20 working days of the date of this minute, file a memorandum addressing the issue of who would be appropriate to appoint as a pukenga.

CIV-2017-485-289 (Rongowhakaata Iwi)

[41] Ms Dawson confirmed that a hearing was sought. She also confirmed that there were three directly overlapping applications:

- (a) CIV-2017-485-284 (Te Rūnanganui o Ngāti Porou Limited);
- (b) CIV-2017-404-571 (Ngāti Oneone); and
- (c) CIV-2017-485-314 (Ngāi Tāmanuhiri Iwi).

[42] Ms Dawson advised that to the south of the area of this application there were three cascading applications which overlapped with this application. These were:

- (a) CIV-2011-485-794 (the Tāmanuhiri application overlaps with Rongomaiwaihine application (Pauline Tangiora));
- (b) CIV-2017-485-230 (the Rongomaiwaihine application overlaps with Ngāti Kurupakika/Ngāti Tauira (Peter Mihaere); and

- (c) CIV-2017-485-288 (the Ngāti Kurupakika/Ngāti Taurira application overlaps with the Ngāti Kaahu (Te Ruahina Marae Trustees) application.

[43] Ms Dawson submitted that the Rongowhakaata application should be heard along with these six applications.

[44] Ms Irwin-Easthope appeared as counsel for Ngāi Tāmanuhiri Iwi (CIV-2017-485-314) and indicated that her client wished to be involved in any timetabling towards a hearing.

[45] In the absence of information as to whether any of the other overlapping cascading parties wished to participate in a hearing, this matter is adjourned to a CMC to be held by AVL on a date to be advised in early December 2021.

[46] Prior to that date, Ms Dawson is to liaise with counsel for the six applicants referred to in [11] of her memorandum of 26 May 2021 and, no later than 10 working days prior to the date fixed for the December 2021 CMC, to file a memorandum with the Court indicating which of the other applicants wish to have their applications heard, or wish to participate as an interested party in the hearing of this application.

[47] The other overlapping applicants who wish to have their applications heard or be involved as an interested party are invited to file memoranda confirming the length of time their cases are estimated to take. All counsel are to liaise as to a draft timetable order, and no later than 10 working days prior to the proposed December CMC, either file a joint memorandum or individual memoranda.

The Rohe Moana o Ngā Hapū o Ngāti Porou Act cases

[48] Mr Milner indicated that these six cases had been commenced in order to comply with ss 98, 109 and 111 of the Ngāti Porou Act 2019 which gave Management Arrangement Trusts two years from the commencement of the Ngāti Porou Act 2019 to make applications to the High Court for recognition orders. He indicated that the Trusts are currently participating in direct engagement with the Crown and therefore sought an adjournment for 12 months to allow this process to be concluded.

[49] Mr Milner noted that there were some overlaps between the six Ngāti Porou Act cases and some of the other applications before the Court (CIV-2017-485-247 and CIV-2017-485-255).

[50] If any of these Ngāti Porou applicants wish to participate as an interested party in any other proceedings that have been timetabled towards hearing, they should file an appropriate memorandum.

[51] For the Attorney-General, Ms Budd, provided an update on the Attorney-General's new initiative towards direct engagement. She also indicated that if applicants are having funding issues they are able to contact Te Arawhiti directly on fundingtakutai@tearawhiti.govt.nz or 080036622.

Tauranga CMC

CIV-2011-485-793 (Ngā Pōtiki)

[52] Stage 1 of this priority application has been heard and Stage 2 has been set down for a six-week hearing to commence Monday 13 September 2021. This hearing is being case managed by Powell J and no further directions are necessary.

CIV-2015-485-767 (Ngā Hapū o Te Moutere o Motītī)

[53] This applicant is also involved in the Ngā Pōtiki priority hearing. Counsel raised funding issues which are said to potentially affect the ability of the applicant to prepare for and participate in the Stage 2 of the Ngā Pōtiki hearing. Ms Budd, appearing for the Attorney-General, indicated that the matter will be followed up with Te Arawhiti.

[54] No further directions are required.

CIV-2017-485-770 (Te Rūnanga o Ngāti Whakaue ki Maketu Inc), and CIV-2017-485-514 (Tangihia Hapū)

[55] The proceedings in CIV-2017-485-770 overlap the Ngā Pōtiki priority application and no further directions are required.

[56] The proceedings in CIV-2017-485-514 appear to have made no progress. The memorandum filed by counsel was very similar to the memorandum filed by counsel in respect of CIV-2017-485-513 heard in the Rotorua High Court. This is dealt with in the minute of the Court of 18 June 2021, and the same observations apply.

[57] The proceedings are adjourned for 12 months to the 2022 Tauranga CMC.

CIV-2017-404-480 (Ngāti Hei)

[58] The historical evidence is yet to be completed. It is anticipated to be completed by the end of 2021. There are six overlapping applications. There has been some face-to-face meetings with some of the overlapping applicants. Counsel advise that this matter is likely to be ready to be timetabled for trial in 12 months' time.

[59] These proceedings are adjourned for 12 months to the 2022 Tauranga CMC. Prior to the 2022 CMC, counsel is directed to file a memorandum detailing the result of meetings with the overlapping claimants. Ideally, there would be a joint memorandum of all counsel wishing to have their applications dealt with at the same time as the hearing of this matter.

CIV-2017-404-483 (Ngāti Pū)

[60] The historical report is not yet complete. There are five overlapping applicants and this applicant has had discussions with one such group.

[61] These proceedings are not ready to be timetabled to hearing. They are adjourned for 12 months to the 2022 Tauranga CMC. Prior to that CMC, counsel is to file a memorandum recording the outcome of discussions with all overlapping claimants and indicating which claimants are in a position to proceed to a timetabling order for trial.

CIV-2017-404-528 (Ngāti Hako)

[62] The historical report is not yet completed and appears unlikely to be finished this year. There are some 14 overlapping claimants. This applicant has had initial discussions with three of them. A further hui is anticipated.

[63] This matter is adjourned for 12 months until the 2022 Tauranga CMC.

CIV-2017-404-556 (Ngāti Porou ki Hauraki)

[64] Mr Lyall's memorandum records that final submissions in relation to direct engagement were provided on 5 April 2019 but that nothing has happened since then. In the absence of any response from the Crown, his client is looking toward progressing this application. There are some 24 overlapping parties. Mr Lyall submits that it may be appropriate to hold the hearing in three stages. It is premature at the moment to make directions towards hearing.

[65] The matter is adjourned for 12 months to the 2022 Tauranga CMC and counsel is requested to liaise with all overlapping applicants, and prior to the 2022 CMC, to file a memorandum updating the Court on readiness for hearing of this application and any overlapping applications that counsel is aware of where the overlapping applicants wish to be part of a hearing. If there have been discussions as to splitting the hearing into parts, the memorandum should outline any progress achieved.

CIV-2017-404-562 (Te Uri a Tehapu)

[66] This application is also being heard with the Ngā Pōtiki priority application and no further directions are required.

CIV-2017-404-568 (Koromatua Hapū of Ngāti Whakaue)

[67] This application is also being heard with the Ngā Pōtiki application and no further directions are required.

CIV-2017-485-196 (Te Rūnanga o Ngāti Awa)

[68] This applicant is also involved in the Ngā Pōtiki priority hearing. The applicant is also engaged in direct engagement in relation to the balance of its application not overlapping the Ngā Pōtiki matter.

[69] This application is adjourned to 12 months until the 2022 Tauranga CMC to allow the direct engagement to proceed.

CIV-2017-485-219 (Ngāti Hē)

[70] This applicant is also involved in the Ngā Pōtiki hearing. This application is adjourned for 12 months to the 2022 Tauranga CMC.

CIV-2017-485-222 (Ngāti Tara Tokanui)

[71] This applicant seeks to have their application heard in full, or in part, with Ngāti Porou ki Hauraki (CIV-2017-404-556). The matter is not presently ready to be timetabled to a hearing given that the applicant has had to change historians because of a conflict of interest.

[72] The applicant's preference is for direct engagement but in view of lack of progress in this regard, the applicant will continue to engage with cross-applicants regarding timetabling towards a potential hearing.

[73] This application is adjourned for 12 months until the 2022 Tauranga CMC.

CIV-2017-485-233 (Te Rūnanga o Ngāti Whakahemo)

[74] This applicant is also participating in the Ngā Pōtiki hearing. No further directions are required. It is adjourned for 12 months until the 2022 Tauranga CMC.

CIV-2017-485-244 (Ngā Hapū o Ngāi Te Rangī)

[75] This applicant is also participating in the Ngā Pōtiki hearing. However, a substantial part of its claim lies outside of the area covered by that hearing. There are nine overlapping applications in relation to the balance area of its claim. Because of the need to participate in the Ngā Pōtiki hearing, the applicant is not yet ready to proceed to hearing in respect of the balance of the claim.

[76] This application is adjourned for 12 months to the 2022 Tauranga CMC.

CIV-2017-485-250 (Ngāti Pūkenga)

[77] This applicant is also involved in the Ngā Pōtiki hearing and no further directions are required.

[78] This application is adjourned for 12 months until the 2022 Tauranga CMC.

CIV-2017-485-294 (Ngāti Ranginui)

[79] This applicant is also involved in the Ngā Pōtiki proceedings. The balance of their claim beyond the area being dealt with by the Court in the Ngā Pōtiki proceedings is not yet ready for hearing.

[80] This application is adjourned for 12 months until the 2022 Tauranga CMC.

CIV-2017-485-317 (Rurima Island Māori Reservation)

[81] The applicant's preference is direct engagement but if the lack of a response from the Crown continues, Mr Milner indicated that the applicant would seek timetable directions. Discussions are underway with overlapping applicants (various hapū of Ngāti Awa). The applicant is encouraged to continue these discussions to attempt to resolve overlapping issues, and also to identify what overlapping claims may appropriately be heard with this one.

[82] The application is adjourned for 12 months to the 2022 Tauranga CMCs.

CIV-2017-485-195 (Ihakara Tangitū Reserve)

[83] The applicant has appointed new counsel. The matter is not ready to proceed to timetabling. It is adjourned for 12 months to the 2022 Tauranga CMC.

CIV-2017-485-257 (Ngai te Hapū Inc)

[84] This application is not ready to proceed. It is adjourned for 12 months to the 2022 Tauranga CMC. Ms Peters is to follow up with Mr Bennion as to progress. He will promptly file a memorandum updating the Court.

CIV-2017-485-291 (Ngāti Pīkiao)

[85] This applicant is also involved in the Ngā Pōtiki proceedings. The balance of its application is not ready to proceed.

[86] This application is adjourned for 12 months to the 2022 Tauranga CMC.

CIV-2017-485-227 (Ngāti Hikakino, Ngāi Te Rangihouhiri II, and Te Tāwera)

[87] The applicants are hapū of Ngāti Awa. Their application is not ready to proceed. They are adjourned for 12 months to the 2022 Tauranga CMC.

[88] Counsel is directed to liaise with other Ngāti Awa cross-applicants in an endeavour to resolve inter-party issues and, at the 2022 CMC, the Court will expect a written update on progress in that regard.

Hamilton CMC

CIV-2017-404-575 (Ngaati Mahuta ki te Hauaauru)

[89] Although Ngaati Mahuta's preference remains direct engagement with the Crown, Ms Siciliano acknowledges that overlapping claimants wish to proceed to a hearing. Ngaati Mahuta may wish to appear in any such hearing either as an interested party or to have their own overlapping application heard.

[90] Ms Siciliano also filed a memorandum on 21 June 2021 in respect of Ngāti Whakamarurangi/Tainui. This interested party has filed notices of intention to appear in relation to the following eight matters:

- (a) CIV-2017-404-526;
- (b) CIV-2017-404-575;
- (c) CIV-2017-419-80;
- (d) CIV-2017-419-81;
- (e) CIV-2017-419-83;
- (f) CIV-2017-419-84;
- (g) CIV-2017-485-202; and
- (h) CIV-2017-484-207.

[91] The interested party wishes to participate in any hearing that may be set down in relation to these overlapping claims.

[92] It appears that a number of the applicants are in the process of revising their claims and filing amended maps. It is likely that the claims will be reduced rather than increased in scope. I have scheduled a further CMC to take place by AVL on Friday 13 August 2021 at 9 am.

[93] No later than five working days prior to that CMC, counsel are to file a memorandum indicating which applications their clients wish to participate in; whether that is as an interested party only or to have either their whole application, or the overlapping part of it, heard; and to detail how much Court hearing time their client's application may require.

CIV-2017-419-83 (Tainui Hapū o Tainui Waka)

[94] Ms Houia's client wishes to proceed to hearing. The primary overlapping claim is that of CIV-2017-419-84 (Waikato-Tainui). Mr Ferguson, representing Waikato-Tainui, filed a memorandum dated 21 June 2021 indicating that his client wished to

support the applicants in CIV-2017-419-83. This application relates to the interests of 12 hapū and is centred on the Whaingaroa Harbour and the adjacent takutai moana to the immediate north and south of that harbour. It is important that these applicants talk to each other and, if possible, come to a formal agreement as to how their respective claims will proceed.

[95] Ms Houia indicated that her client intended to file an updated map and I direct that this be done within 14 days of the date of this minute. CIV-2017-419-83 is adjourned to the further CMC to be held on 9 am on Friday 13 August 2021 by AVL.

[96] No later than five working days prior to that CMC, counsel will file a memorandum detailing the discussions that have been had with potential overlapping claimants and the agreements that may have been reached. The memorandum will also identify the other applicants whose claims may potentially be heard at the same time and indicate how much hearing time the applicant requires.

CIV-2017-419-80 (Tootill), CIV-2017-485-216 (Ngā Hapū o Mokau ki Runga), and CIV-2017-485-209 (Mokau ki Runga Regional Management Committee)

[97] Ms Rauputu indicated that her clients intended filing an amended map which is likely to reduce the area of overlap although it was anticipated there would still be overlap with Ngaati Mahuta, Ngāti Te Wehi, Ngāti Apakura, and Waikato-Tainui.

[98] Ms Rauputu indicated that CIV-2017-485-209 related to the southern area of this applicant's claim and overlapped with claims by Ngāti Tama which are being dealt with through the New Plymouth registry. She requested that this claim be transferred to the New Plymouth registry and dealt with alongside the other New Plymouth claims. That request is granted. This claim is transferred to the New Plymouth registry.

[99] Applications CIV-2017-419-80 and CIV-2017-485-216 are adjourned to the AVL CMC to be held at 9 am on Friday 13 August 2021. No later than five working days prior to the CMC, counsel is to file and serve a memorandum addressing the issues set out in [96] above.

CIV-2017-419-81 (Ngāti Te Wehi)

[100] Mr Stone indicated that an amended map was to be filed which will reduce the area of claim. I direct that the amended map is to be filed and served within four weeks of the date of this minute. This claim would appear to overlap with CIV-2017-419-80, CIV-2017-404-575, CIV-2017-485-202, and CIV-2017-419-84. It appears there has been relatively little dialogue between this applicant and the overlapping applicants.

[101] Ngāti Te Wehi wish to proceed to a hearing in 2022.

[102] This application is adjourned to the AVL CMC scheduled for 9 am on Friday 13 August 2021. Prior to the CMC, counsel will file and serve a memorandum containing the information set out in [96] above.

CIV-2017-419-84 (Waikato-Tainui)

[103] Mr Ferguson indicated that his client actively supported the applications by Ngaati Mahuta, Ngāti Te Wehi, and Ngāti Apakura. He offered to prepare a table indicating which hapū of Waikato-Tainui have interests on the West Coast whose applications are supported by Waikato-Tainui. I direct that this table be filed and served no later than four weeks from the date of this hearing.

[104] Mr Ferguson also thought that there may be some areas covered by his client's application that are not also covered by separate applications from its hapū. I direct that his table identify such areas as well.

[105] It is important that Waikato-Tainui clarify its position in relation to the applications being pursued by its hapū. Accordingly, this matter is also adjourned to the AVL CMC to be held at 9 am on Friday 13 August 2021.

[106] Counsel is to file and serve a memorandum no later than five working days prior to that CMC indicating the outcome of discussions with its hapū in respect of their claims and detailing any areas where Waikato-Tainui still wishes to pursue a claim independently.

Attorney-General

[107] Mr Melvin undertook to pass on the Court's concerns about funding issues to Te Arawhiti. He also noted that two of the applicants referred to in [7] of the memorandum filed by Ms Sykes on 21 May 2021 (CIV-2017-419-84 and CIV-2017-485-209) had not, in fact, applied for funding. Those applicants will need to progress their applications.

[108] Mr Melvin also confirmed that Ngāti Whakamarurangi will be contacted by the Crown shortly in respect of their request for direct engagement.

Rotorua CMC

[109] Issues as to funding were raised in a number of the memoranda filed on behalf of several of the applicants. The concerns included claimed non-payment of invoices in respect of the Stage I Whakatōhea hearing, particularly invoices for disbursements and lack of funding or a lack of clarity about funding in respect of work that needed to be done for the Stage II Whakatōhea hearing including the preparation of mapping evidence.

[110] Mr Melvin had investigated a number of the applicants' concerns with Te Arawhiti and was able to clarify that most of the outstanding Stage I invoices had been paid, a number were in the process of being paid, and some were awaiting approval. There was an issue with one in relation to exceeding the funding limit which was being worked through.

[111] Mr Melvin confirmed that, in relation to the funding for the second stage, additional funding had just been made available as a result of Ministerial intervention.

[112] Ms Sykes' instructions in relation to non-payment of invoices in respect of Ngāti Ira was at odds with the information Mr Melvin had and he undertook to file a memorandum within 14 days clarifying the situation.

[113] In relation to funding issues regarding matters such as mapping, a number of the parties had asked Mr Ketu to be the point of contact and he will liaise with Te Arawhiti.

[114] Mr Sinclair, on behalf of Te Whakatōhea Kotahitangi Waka applicants, raised a query as to whether residual funding from the Whakatōhea Stage I hearing could be utilised in respect of the Whakatōhea Stage II hearing. He is encouraged to liaise directly either with Te Arawhiti or with Mr Melvin. Mr Melvin is requested to investigate this matter and, if possible, to file and serve a memorandum clarifying the position ideally within 14 days.

[115] Mr Sinclair raised the possibility of an adjournment of the Stage II Whakatōhea hearing which has presently been set down to proceed in February 2022. No stay application has been filed and the mere fact that there have been appeals does not necessitate a stay. Indeed, clarification of certain matters at the Stage II hearing may well remove the need for some of the appeals to proceed.

[116] As far as the Court is aware, only one of the appeals to the *Whakatōhea* decision challenges the fundamental approach taken by the Court and the other appeals appear to relate to matters of detail. There is always the possibility that if the appeal that fundamentally challenges the Court's approach is unsuccessful in the Court of Appeal, that it may be taken to the Supreme Court. It could therefore be some time before that challenge is finally resolved. In the meantime, the parties' interests are best served by proceeding with the second stage of the Whakatōhea hearing, and with the Court making such findings of fact and legal rulings in respect of that part of the application as are relevant to Stage II.

CIV-2017-485-253 (Ngāti Patumoana)

[117] Mr Bennion confirmed that his client was engaged in dialogue with the other applicants in the Whakatōhea proceedings in anticipation of the Whakatōhea Stage II hearing taking place as scheduled in February 2022.

CIV-2017-485-201 (Te Ūpokorehe)

[118] Mr Lyall confirmed that his instructions were similar to Mr Bennion's. He confirmed that his client was actively attempting to progress matters in accordance with the timetable.

CIV-2017-485-270 (Ngāi Tai), CIV-2017-485-272 (Ririwhenua Hapū)

[119] Ms Rongo's clients were also working towards participation in the Whakatōhea Stage II hearing.

CIV-2017-485-355 (Te Whakatōhea Rangatira Mokomoko)

[120] Mr Ketu's client was also engaged in dialogue with other applicants with a view to reaching agreement on matters in relation to the Whakatōhea Stage II inquiry.

[121] Mr Ketu confirmed that his client had initially sought a recognition order in relation to Moutohorā (Whale Island). His client was therefore in the same position as the applicants in CIV-2017-485-377 and CIV-2017-485-262. Ms Linstead-Panoho, on behalf of those applicants, had sought clarification as to whether the PCR recognition order granted by the Court in the *Whakatōhea* decision included Moutohorā.

[122] This matter will be dealt with in a separate decision. Both Ms Irwin-Easthope on behalf of Ngāti Awa, and Mr Melvin on behalf of the Attorney-General wish to have the ability to file memoranda in response to the memorandum received from Ms Linstead-Panoho shortly before the start of the Rotorua CMC. Such memoranda are to be filed within 14 days.

[123] Once I have received any memoranda filed by Ms Irwin-Easthope or Mr Melvin, I will issue a decision on the papers.

CIV-2017-485-377 (Ngāi Tamahaua), and CIV-2017-485-262 (Te Hapū Titoko o Ngāi Tama)

[124] In addition to the query regarding Moutohorā, Ms Linstead-Panoho also sought clarification whether separate PCR recognition orders were to be granted to both Ngāi Tamahaua and Te Hapū Titoko o Ngāi Tama.

[125] As is noted in the *Whakatōhea* decision, Ngāi Tamahaua and Te Hapū Titoko o Ngāi Tama effectively presented a joint case relying on exactly the same evidence. The Court has found that the statutory requirements for an order of PCR have been met. It is

a matter for Ngāi Tamahaua and Te Hapū Titoko o Ngāi Tama as to the entity or entities that should hold the PCR.

[126] It is possible for there to be multiple overlapping PCRs and, given the particular customary rights recognised by the Court, there would be no reason why both Ngāi Tamahaua and Te Hapū Titoko o Ngāi Tama should not be awarded separate PCRs in identical terms. Should any other applicant wish to submit to the contrary, then that can be dealt with at the Whakatōhea Stage II hearing in February 2022. Any other applicant opposing such a course should file submissions on that topic no later than 14 days prior to the February 2022 hearing with Ngāi Tamahaua and Te Hapū Titoko o Ngāi Tama to file submissions in reply no later than seven days prior to the commencement of the Stage II hearing.

CIV-2017-485-299 (Ngāti Ira o Waiōweka Rohe) and CIV-2017-485-292 (Ngāti Ruatakenga)

[127] Ms Sykes supported the Stage II Whakatōhea hearing proceeding as scheduled. She suggested that it may be appropriate to schedule a teleconference in the second week of August 2021 to address issues of funding. However, it is premature to do that. If the updating memoranda to be filed by counsel disclose that funding issues remain unresolved, then any applicant can apply, at short notice, for a teleconference or (if feasible) AVL conference to address the outstanding issues.

CIV-2017-485-292 (Whakatōhea Māori Trust Board)

[128] Mr Pou reported that engagement by way of preparation for the Whakatōhea Stage II hearing was only “happening in pockets”. This was disappointing to hear. The quality of any recognition orders the Court is able to issue is likely to be enhanced where all parties have engaged in dialogue, in accordance with tikanga, in an attempt to agree the precise contents of such recognition orders.

CIV-2017-485-513 (Manu Paora Whānau)

[129] A memorandum dated 22 June 2021 signed by Ms Mason was received by the Court. Regrettably, the memorandum did not contain all of the information the Court had

directed Ms Mason to provide and some of the information in it contradicted representations previously made by Ms Mason.

[130] Despite the Court having specifically declined Ms Mason's application to be excused from attending the hearing, and the Court offering the opportunity to attend by AVL in light of Ms Mason's claim that "lack of funding" prevented her attending, Ms Mason did not attend in person. She instead sent Ms Goble, an employee of hers. Ms Goble had not been adequately briefed, she was unable to answer the Court's questions in respect of the missing information from Ms Mason's memorandum and, like the Court, was confused at some of the apparent inconsistencies.

[131] Ms Mason's excuse for not attending the CMC is that she had a hearing in Napier and was "obliged to attend that hearing". This was the first time Ms Mason had mentioned a clash of fixtures. In any event, the established procedure is that where counsel ends up with conflicting fixtures in different Courts, the fixture in the superior Court takes precedence. Where counsel seeks to depart from that standard practice, an application to the Court is required. There may be circumstances where a fully briefed agent may appear. This is not one such case. Ms Goble appeared not to have been briefed at all on the specific issues that the Court had asked for further information on.

[132] The information that the Court directs Ms Mason to provide is:

- (a) whether the \$3,000 referred to in [3](a) of her memorandum of 22 June 2021 is a sum invoiced by her to Te Arawhiti in respect of CIV-2017-485-513 or another matter;
- (b) whether the sum of \$12,986 referred to in [5](d) of her memorandum dated 22 June 2021 was invoiced to Te Arawhiti in respect of this matter or another matter, and if another matter, which one; and
- (c) in relation to Ms Mason's claim that "there is no funding left for interlocutory matters", the Court is surprised at the inference which it is possible to draw from in Ms Mason's memorandum that, in these proceedings, in relation to interlocutory matters, work to the sum of

\$12,986 could have been done. There is no evidence on this file of any interlocutory applications having been made in these proceedings and the involvement of counsel would seem to be limited to reporting at CMCs that no progress had been made with the claim.

[133] The Court is acutely conscious of the financial difficulties faced by some applicants. Although the funding of these proceedings is not a matter over which the Court has control, where counsel have raised the issue of funding, particularly where difficulties with funding are said to be the reason why no progress has been made with a claim, the Court has invited the representative of the Attorney-General to raise the matter with Te Arawhiti.

[134] In a number of occasions this has resulted in payment of outstanding invoices or identification of the impediments to such invoices being paid. In a significant number of cases, it has also been identified that invoices which counsel thought had been submitted had not, in fact, be sent to Te Arawhiti.

[135] In order to be able to provide assistance to the parties in this regard, the Court is reliant upon counsel providing accurate information when requested. When counsel are claiming that a lack of funding is the reason why claims have not progressed, they are under an obligation to co-operate with the Court and supply full and accurate information so that the Court can understand the basis for their submission. I therefore direct that Ms Mason provide the information requested in [132] above within 14 days of the date of this minute.

Whangarei CMC

CIV-2017-485-252 (Te Popoto ki Oturei)

[136] By memorandum of 25 June 2021, Ms Sreen sought leave to amend a typographical error in relation to the name of the river forming the southern boundary of this application. The correct name of the river is the Waitetahiwha Stream. However, in the second amended application the stream was incorrectly named "Waitetahi". The

supporting affidavit of Mr Te Tuhi contained the correct spelling of the stream as did the public notice published in the Northland Age on 13 April 2017.

[137] The principles relating to amendment of an application were set out in *Re Ngāti Pāhauwera*.³ Applicants will not be allowed to increase the area covered by an application after the date for filing and notification of applications has expired. The rationale for this is that parties who are potentially affected by an application would have been denied an opportunity to participate in the application as, by reviewing the relevant map and the description in a public notice, they would not be aware that the application covered an area that they were interested in.

[138] In the present case, there is no such risk. Notwithstanding the misspelling in the body of the application, the supporting affidavit and map correctly identified the Waitetahiwha Stream as the southern boundary as did the public notification.

[139] Accordingly, leave is granted to correct the misspelling of the name of the river. An amended application with the correct spelling is to be filed. However, this order is to be suspended for 10 working days from the date of this minute to allow any other party potentially affected who wishes to make submissions to do so. If necessary, any issues arising will be resolved on the papers.

[140] Ms Sreen also filed a second application which sought to have the Te Popoto ki Oturei application timetabled for hearing. There are some nine overlapping claimants. Four of those overlapping claims cover very wide areas and are themselves overlapped by numerous other claims.

[141] Ms Sreen proposed a hearing area extending south of the area claimed by Te Popoto ki Oturei down as far as Kaipara Harbour and a similar distance to the north of the northern boundary of the applicant's area.

[142] All overlapping claimants are entitled to be involved in any decision as to whether to timetable this claim towards hearing and as to which overlapping claims or parts of overlapping claims should be heard.

³ *Re Ngāti Pāhauwera* [2020] NZHC 1139.

[143] As a result of the very late filing of Ms Screen's memorandum, a number of counsel acting for clients whose applications are potentially impacted by the application for timetable orders, have already had their attendance at the CMC excused. Accordingly, the Court is not prepared to make timetable directions at the moment.

[144] I direct that the applicant contact all overlapping claimants, provide them with details of the proposed hearing area, and cross-applications or parts of cross-applications that it is proposed be heard with this application.

[145] Within 60 days of the date of this minute, a joint memorandum (or if no agreement can be reached, individual memoranda from counsel for each of the affected applicants) is to be filed setting out the position of each applicant on the proposal for a timetable order toward hearing.

[146] If there is no agreement, the Court will schedule a further CMC, probably by AVL link, to address this matter further.

CIV-2017-404-529 (Te Whānau-ō-Rātāroa), CIV-2017-404-577 (Ngāti Rahiri and Ngāti Kawa), CIV-2017-404-578 (Ngāti Tara), CIV-2017-485-245 (Te Iwi o Te Rarawa ki Ahipara)

[147] These matters are all not in a position to be set down for hearing. They are adjourned for 12 months to the 2022 Whangarei CMC. Counsel is directed that, no later than 30 days prior to the date to be set for the 2022 Whangarei CMC, to file a memorandum providing specific details in respect of each of these applications in relation to evidence preparation, engagement with overlapping claimants, and readiness of each application for being timetabled toward hearing.

CIV-2017-485-268 (Ngā Hapū o Ngāti Kahu)

[148] The progress of this matter has been held up with the passing of named applicant, Glen Larkin Kaiwaka. Leave is granted for the pleadings to be amended to show that he is deceased. The applicants have engaged a historian but the historian is unlikely to have a report completed by to the end of 2022. The engagement with overlapping applicant groups is continuing.

[149] This matter is adjourned for 12 months to the 2022 Whangarei CMC.

CIV-2017-404-579 (Ngā Hapū o Tangaroa ki te Ihu o Manaia te atu ki Mangawhai)

[150] Evidence gathering is underway but the matter is not yet ready to be timetabled to hearing. Counsel raised with the Court difficulties regarding funding. Mr Melvin, on behalf of the Attorney-General, was asked to investigate funding and reported to the Court that this case had been approved for the maximum funding category and substantial sums already paid.

[151] Mr Afeaki is to investigate further and file a memorandum with the Court within 10 working days of the date of this minute confirming what funding has been applied for, what payments have been received, and whether any invoices are outstanding awaiting payment.

CIV-2017-404-546 (Ngāti Rehua)

[152] This application is normally dealt with in the Auckland registry but, at counsel's request was called at the Whangarei CMC. This is a matter where Mr Afeaki is the Court-appointed independent interim chair of the Ngāti Rehua – Ngatiwai ki Aotea Trust. His report outlined the outcome of litigation that had taken place in the High Court and confirmed that he anticipated that the management of the Trust would shortly be handed over to incoming trustees who could then progress this application.

CIV-2017-485-268 (Ngā Hapū o Ngāti Kahu)

[153] Although counsel raised funding concerns in his memorandum of 21 June 2021, Mr Melvin, on behalf of the Attorney-General investigated these and confirmed that funding had been approved for this matter at the maximum funding limited and substantial funds already paid. Again, within 10 days of the date of this minute, Mr Afeaki is to file a memorandum confirming what funding has been applied for, what payments have been received, and whether any invoices are outstanding awaiting payment.

[154] This application is adjourned for 12 months to the 2022 Auckland CMC.

CIV-2017-485-231 (Ngāti Hine), CIV-2017-485-265 (Ngāti Kawa and Ngāti Rahiri), CIV-2017-488-26 (Te Kapotai)

[155] Ms Jamieson appeared in respect of these three matters. Her memorandum of 21 May 2021 said that there had been no funding available for legal advice for the Ngāti Hine and Te Kapotai applicants and only minimal funding for the Ngāti Kawa and Ngāti Rahiri applicants.

[156] Ms Jamieson submitted that counsel could not undertake further work without proper funding. At the Court's request Mr Melvin had contacted Te Arawhiti to provide an update on funding. In respect of Ngāti Hine, Mr Melvin advised that a funding at the maximum level had been approved and submitted costs of \$55,000 had been reimbursed to date. In respect of Te Kapotai, funding at the maximum level had been approved and to date only one reimbursement request had been received. In respect of Ngāti Kawa and Ngāti Rahiri, funding at the maximum amount had been approved, \$66,000 had been reimbursed on 10 June 2021 and a further invoice for \$18,000 was being processed.

[157] Ms Jamieson is directed, within 10 days is to file a memorandum confirming what funding has been applied for, what payments have been received, and whether any invoices are outstanding awaiting payment.

CIV-2017-485-240 (Te Rūnanga Nui o Te Aupōuri)

[158] This applicant's preference is to proceed to direct engagement. It is not ready to be timetabled to hearing and is adjourned for 12 months to the 2022 Whangarei CMC.

CIV-2017-485-249 (Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti, Ngaitupango Hapū o Whangaroa), CIV-2017-485-378 (Ngāti Maraeariki, Ngāti Rongo)

[159] Evidence gathering is ongoing and neither matter is ready to proceed to a hearing. Funding has been approved. Both matters are adjourned for 12 months to the 2022 Whangarei CMC.

[160] The applicants are encouraged to continue with constructive dialogue with the overlapping applicants.

CIV-2017-485-277 (Ngāti Manu Hapū, Te Uri Karaka and Te Uri o Raewera)

[161] Ms Sykes wished to have Ngāti Manu's application timetabled toward hearing. The applicant's preference had been direct engagement but lack of progress had prompted it to reactivate the Court proceedings.

[162] Ngāti Manu's claim is overlapped by a large number of other claims. The applicant has had productive engagements with some of the overlapping applicants but reported that other overlapping applicants had been less co-operative. This may be a case where a judicial settlement conference presided over by an Associate Judge could be of assistance in assisting some or all of the cross-applicants to identify areas of commonality as between their claims with the object of refining the claims and minimising the extent to which the overlapping applicants are in competition one with the other.

[163] While it may be unrealistic to expect that all overlapping applicants would wish to participate in such a process, if there is a sufficient number so that there is a realistic prospect of agreement on issues and a corresponding reduction in the length of Court hearing that may ultimately be required to resolve these matters, then the Court will attempt to facilitate a JSC.

[164] Ms Sykes is to communicate with counsel for cross-applicants whose claims overlap that of Ngāti Manu and, no later than 30 September 2021, all such counsel are to file a joint memorandum confirming their willingness to participate in a JSC and the matters which they believe can productively be the subject of such a course. If a joint memorandum is not able to be filed, then counsel will either file individual memoranda or a joint memorandum from as many applicants who are able to agree. The Court will then consider whether it is appropriate to arrange for a JSC.

CIV-2017-485-306 (Ngātiwai – Whānau o Ohawini), CIV-2017-488-029 (Walker), CIV-2017-485-408 (Ngā Uri o Hairama Pita Kino Davies), and CIV-2017-485-409 (Whangaroa Ngaiotonga)

[165] Mr McCarthy reported that each of these applicants was engaging with overlapping applicants with productive meetings having been held as recently as

yesterday and further meetings scheduled. He raised the issue of payment for these meetings.

[166] Mr Melvin, on behalf of the Attorney-General, indicated that Te Arawhiti may possibly be prepared to assist with funding in circumstances where these meetings may assist in resolving issues as between cross-applicants and reducing the length of any hearing ultimately required.

[167] All of these matters are not ready to be timetabled to hearing. They are adjourned for 12 months to the 2022 Whangarei CMC.

CIV-2017-404-525 (Ngāti Manu and Ngāti Rangi), CIV-2017-404-554 (Ngā Hapū o Ngātiwai Iwi, CIV-2017-404-559 (Ngāti Kahu, Te Rarawa and Te Uriohina), CIV-2017-404-555 (Te Whānau o Hōne Pāpita Rāua Ko Rewa Ataria Paama), and CIV-2017-485-799 (Te Parawhau Hapū)

[168] Ngā Hapū o Ngātiwai is continuing to engage with overlapping whānau and evidence gathering is continuing.

[169] Mr Moran has appointed a project manager is also engaging with overlapping applicants. In relation to Ngāti Kahu, Te Rarawa and Te Uriohina, counsel has met with the applicants who are at the early stage of preparation for hearing.

[170] In respect of both Te Whānau o Hōne Pāpita Rāua Ko Rewa Ataria Paama and Te Parawhau Hapū, other counsel had previously been engaged but the applicants wish to instruct Mr Sinclair.

[171] None of these matters are ready to be timetabled and all are adjourned for 12 months until the 2022 Whangarei CMC.

[172] No later than one month prior to the date fixed for the Whangarei CMC, counsel is to file a detailed memorandum explaining what progress has been made by way of evidence gathering and engagement with overlapping applicants.

Interested parties

[173] Mr Mathias appeared on behalf of the Lang's Beach Society Incorporated who are interested parties in the Te Uri o Hau application. He filed a memorandum on 25 May 2021. He noted that counsel in most of the eight applications his client was an interested party in were seeking a 12 month adjournment and he did not oppose that.

[174] Ms Golightly appeared on behalf of Northport Ltd and registered her client's interest in those applications which overlapped with the operations of Northport.

[175] Mr Melvin appeared on behalf of the Attorney-General. He reported on the Crown's funding review and indicated that following the second round of consultation there may well be changes to the Crown's funding policy later this year.

[176] In respect of specific funding applications, in addition to those detailed above, Mr Melvin confirmed that:

- (a) the funding application by the Ngāti Rehua Trust as an interested party was expected to have a decision prior to the end of the month; and
- (b) CIV-2017-485-256 (McGee Whānau), no funding application had yet been filed.

[177] In a memorandum of 21 May 2021, counsel for matters CIV-2017-404-529, CIV-2017-404-577, CIV-2017-404-578, CIV-2017-485-233, CIV-2017-485-245, and CIV-2017-485-252 had complained that funding received had been insufficient for the applications listed to proceed to substantive hearing. It was submitted that the amount of money received by way of funding was insufficient; payments were being made infrequently and inconsistently and there were delays in payment.

[178] Mr Melvin reported as follows:

- (a) CIV-2017-404-529, funding at the second highest level had been approved and to date \$57,500 had been paid. The last request filed on 16 June 2021 is being processed;

- (b) CIV-2017-404-577, the maximum available funding had been approved and \$40,700 had been paid with no outstanding reimbursement requests;
- (c) CIV-2017-404-578, the second highest level of funding had been approved with \$48,700 paid and no outstanding reimbursement requests;
- (d) CIV-2017-485-233, the second highest level of funding had been approved and \$56,900 had been paid with no outstanding reimbursement requests;
- (e) CIV-2017-485-245, the second highest funding level had been approved with \$130,400 paid to date and no outstanding requests; and
- (f) CIV-2017-404-580, the second highest funding level approved with \$39,300 paid and no outstanding requests.

[179] Ms Sreen is directed to file a memorandum within 30 days of the date of this minute explaining what matters were being referred to in [17] of her memorandum of 21 May 2021.

[180] In relation to applications where counsel had sought and obtained excusal from appearance, Mr Melvin advised that:

- (a) CIV-2017-485-398 (Collier), Ms Mason had submitted 26 invoices totalling \$36,900 which had been paid in full; nine invoices totalling \$112,200 had been paid in part with deductions in relation to duplicated activity and costs not part of the funding scheme. A claim for \$12,908 was pending;
- (b) CIV-2017-485-515 (Reti Whānau), 23 invoices totalling \$30,200 had been paid in full; eight invoices totalling \$91,300 had been paid in part with deductions for duplicated activity and costs beyond the funding scheme; and

- (c) in relation to another of Ms Mason's clients, Te Ko Rakau, on behalf of Waitaha Executive Grandmother Council, no funding application had yet been received.

Ms Mason is directed to file a memorandum responding to these assertions.

[181] CIV-2017-485-510 (Tarewa Rota) where counsel, Kāhui Legal, had submitted that funding issues continue to impede progress, Mr Melvin reported that the second highest level of funding had been approved and \$138,000 paid.

Auckland CMC

CIV-2017-404-563 (Te Rūnanga o Ngāti Whātua)

[182] There was a flurry of activity on this matter in the days immediately prior to the CMC. In a memorandum of 20 May 2021, Ms Chen had advised the Court that the applicant was engaged in a process of communication with its own hapū and other cross-applicants. Its position was it would support claims advanced on behalf of its own hapū and their related entities to the extent that their support was requested. It was indicated that Te Rūnanga may file evidence outlining the general nature of Ngāti Whātua interests in respect of cases where its hapū wished to conduct their own Court hearing. It was reported that the process of hui with overlapping applicants who did not have links to Ngāti Whātua was ongoing.

[183] By memorandum dated 17 June 2021, counsel reported that Te Rūnanga wished to proceed by way of timetabling towards hearing. Te Rūnanga was on track to conclude its Treaty of Waitangi settlement with the Crown which would allow more resources to be put into progressing this application.

[184] A further memorandum was filed on 30 June 2021 detailing the efforts of Te Rūnanga to contact overlapping applicants. It reported that some 90 per cent of the 41 overlapping applicants had been contacted and that hui and discussions either had been, or were being, organised.

[185] At the CMC, counsel provided a detailed chart which grouped all of the overlapping applicants into seven categories and made some comments about their estimated preparedness for hearing and some of the issues potentially arising.

[186] A number of issues arise from the memorandum and submissions of Ms Chen. While it is encouraging to see Te Rūnanga take proactive steps to engage with the many cross-applicants, much work needs to be done before decisions can be made about what groups of overlapping claims are ready to be heard and timetabling orders as to directions made.

[187] Some of these are matters for Te Rūnanga itself. It appears that its very broad application was a “protective” one in the sense that Te Rūnanga wished to ensure that all of its hapū and related entities had their interests protected by having a claim on their behalf filed within the statutory time limit.

[188] Ms Chen advised that there were some groups who had not separately filed their own claims and respect of whom Te Rūnanga would be actively advancing claims. There are also other groups who wished to be responsible for the conduct of their own claim. The first step would therefore seem to be for Te Rūnanga to engage in dialogue with all those of the applicants that affiliate to it, to identify the type of support from Te Rūnanga (if any) that the applicant is seeking. This process is likely to result in Te Rūnanga varying its application and an agreed memorandum being filed which allows the Court to understand those matters where Te Rūnanga and its constituent entities are in agreement, and any matters where there is still conflict that requires the assistance of the Court to resolve.

[189] It is likely that following the completion of this exercise, Te Rūnanga will need to engage with overlapping claimants who do not have links to it. There may be opportunities for agreement on issues such as joint exclusivity.

[190] The final process will be to identify which groups of applications can usefully be heard together. It is unrealistic for the Court to attempt to hear, at one hearing, some 40 claims. The hearing would simply be too long and applicants who have claims over

tightly defined areas would be obliged to participate in a hearing which addressed claims in relation to much broader areas where they had no interest.

[191] Inevitably, if the hearings are divided up on a geographical basis, there will be some applicants who have to participate in more than one hearing. That will expose some applicants to potentially greater costs. However, it is important that hearings are manageable. Te Rūnanga's claim covers both the East Coast and West Coast of the North Island and a potential grouping upon geographic lines, perhaps with subdivisions for claims relating to the northern part of each coastline and then the southern part, may be feasible.

[192] The Court also discussed with counsel the availability of a JSC presided over by an Associate Judge should a sufficient number of applicants agree that such a course may assist in refining or resolving issues as between applicants.

[193] The most productive time for engaging in such an exercise would seem to be once the Court has determined what groups of claims can appropriately be heard at the same time. It is only when this has been done that it will be clear exactly what issues there are between the applicants involved that might usefully be addressed by a JSC.

[194] The Court discussed with the parties affected by Te Rūnanga's claim the possibility of a further CMC in approximately three months' time. This matter is therefore adjourned until 24 September 2021 for a further CMC to take place in the High Court at Auckland. The purpose of that CMC will be to identify potential groupings of cases that are ready to be timetabled to hearing. All counsel involved are to file and serve memoranda no later than **14 September 2021** indicating whether their client wishes to participate in such a hearing, its state of preparedness and the length of time required to present its case.

[195] The memorandum of counsel for Te Rūnanga will also address the matters discussed in [188] above.

CIV-2017-404-518 (Ngāti Taimanawaiti), CIV-2017-404-580 (Ngāti Rehua/Ngātiwai ki Aotea)

[196] Two memoranda dated 21 May and 28 June 2021 respectively were filed in relation to these matters and both Mr Mohamed and Ms Yogakumar made supplementary submissions to the Court.

[197] The memoranda recorded that Crown engagement was still being explored and engagement with overlapping applicants, of which there are 38, was continuing. An adjournment was sought to allow these processes, and the finalisation of historian reports, to be completed. It was also submitted that there was “continuing insufficiency of funding for applications to proceed to substantive hearing”.

[198] At the Court’s request, Mr Melvin, counsel for the Attorney-General, had checked with Te Arawhiti in an endeavour to identify the nature of any funding problem and see whether it could be resolved. He reported that the applications had been granted the second highest level of funding approval, substantial sums had been paid, and there were no outstanding invoices.

[199] Counsel clarified that the main concern with funding was as to the fact that there were deficits in some categories. Mr Melvin reported that, if there was an unused allocation of funding for one category of work and further funding needed for another category, it was possible for the applicant to approach Te Arawhiti to request a transfer of that funding.

[200] The decisions of Te Arawhiti as to matters such as funding categories are policy matters that, in these proceedings, the Court is not entitled to interfere with. That distinguishes them from matters such as delays in processing applications, failure to pay appropriately rendered invoices or other similar matters which are impeding the Court’s ability to set matters down for hearing. The Court can, and has, raised issues of this nature and, through counsel for the Attorney-General, Te Arawhiti has been able to clarify many of the concerns and to respond promptly where there has been some oversight or delay in payment.

[201] In relation to the possible timetabling of this matter to a hearing, Ms Yogakumar confirmed that these applicants would prefer a hearing focused on the West Coast of the North Island running north from the entrance to Kaipara Harbour.

[202] This matter is adjourned to the CMC on 24 September 2021. Counsel is to promptly file the amended map of the application referred to in [9](a)(ii) of the memorandum of 28 June 2021.

*CIV-2017-404-574 (Ngāti Rehua/Ngātiwai ki Aotea),
CIV-2017-485-378 (Ngāti Maraeariki/Ngāti Rongo)*

[203] Ms Thornton reported that in both of these matters the applicants are engaging with overlapping applicants and are continuing with evidence gathering. They are adjourned for 12 months until the 2022 Auckland CMC.

CIV-2017-404-520 (Ngāti Whātua o Orakei Trust)

[204] Ms Jones reported that the applicant's preference remained direct engagement although there had been no response from the Crown since 2017. This applicant has been involved in High Court litigation and counsel expressed the view that the result of that litigation, which is not expected until late 2021 or early 2022, may have an effect on overlapping claims within the takutai moana.

[205] A further memorandum of 28 June 2021 was filed by counsel in response to the memorandum of 17 June 2021 from Te Rūnanga o Ngāti Whātua. Counsel sought to have Ngāti Whātua o Orakei Trust recorded as wishing to be an active participant in any hearing of the application by Te Rūnanga and reserved their position as to whether they would wish to be heard in relation to their own application at the same time.

[206] This matter is adjourned until the 24 September 2021 CMC.

CIV-2017-404-524 (Mahurangi, Ngāti Awa and Ngāpuhi)

[207] Mr Lyall has recently taken over as instructing solicitor in this matter. The applicant is engaging in hui with cross-applicants. It is not ready to be timetabled towards hearing.

[208] This application is adjourned for 12 months until the 2022 Auckland CMC.

CIV-2017-404-564 (Ngāi Tai ki Tāmaki)

[209] Ms Siciliano advised her client's preference was Crown engagement but it was disappointed with the indication that this might not occur prior to 2035. Historical research and the gathering of traditional/customary evidence was underway. The applicants were prepared to engage with Te Rūnanga o Ngāti Whātua. In terms of any prospective hearing area, its preference was for a separate hearing for applications on the West Coast.

CIV-2017-404-582 (Te Whānau-a-Haunui)

[210] Ms Andrews reported that the applicant's preference was direct engagement but, because of the anticipated commencement date for that being 2035, the applicant was pursuing litigation.

[211] In a written memorandum of 1 June 2021, Ms Andrews had raised concerns that "Te Arawhiti has not been resourced to better communicate with applicants and progress matters over the past year". She noted that the applicant was a small whānau group with limited means.

[212] Mr Melvin checked with Te Arawhiti who confirmed that this applicant had been granted funding at the medium level (third highest of the levels) and \$64,405 had been paid and there were no outstanding reimbursement requests.

[213] This application is adjourned until the CMC on 24 September 2021.

CIV-2017-485-276 (Ngāti Rongo o Mahurangi)

[214] Ms Sykes reported that historical research was ongoing and engagement with overlapping applicants and interested parties had commenced. She indicated her client was supportive of the possibility of a JSC and was also willing to engage in further hui with overlapping applicants.

[215] This matter is adjourned until the CMC on 24 September 2021.

CIV-2017-404-545 (Ngāti Manuhiri)

[216] Mr Pou filed a memorandum on 28 June 2021 indicating that while his client's research was not at a stage where the application could be timetabled for a hearing, Ngāti Manuhiri was aware of the initiative by Te Rūnanga o Ngāti Whātua and was prepared to engage in that process.

[217] This application is adjourned for 12 months until the 2022 Auckland CMC.

Interested parties

[218] Mr Gardner appeared for the interested party, Manaia Properties Ltd. He was encouraged to talk to those applicants whose claims related to his client's area of interest. As an interested party, his client would be able to access the Te Arawhiti maps to assist in identifying exactly which applications cover their area of interest.

[219] Mr Melvin appeared for the Attorney-General. In addition to providing advice on the status of the funding applications referred to above, he also reported that, in respect of CIV-2017-404-518 (Ngāti Taimanawaiti), where counsel had submitted that insufficiency of funding necessitated an adjournment, that this application had been accorded the highest level of funding, with \$85,200 paid.

[220] Mr Melvin also commented on applications CIV-2017-485-187 and CIV-2017-485-188 where Mr Castle had reported an inability to contact a representative of the applicant, that Ms Bouchier, the applicant in CIV-2017-485-188, currently had nine Crown engagement applications and was in communication with Te Arawhiti. Mr Melvin was requested to advise Mr Castle of the appropriate address for correspondence.

[221] In addition to those cases that have specifically been adjourned until 24 September 2021, any other applicants whose cases have been adjourned until the 2022 Auckland CMC, and whose claims are overlapped by Te Rūnanga o Ngāti Whātua, are entitled to participate in the 24 September 2021 CMC as interested parties.

[222] All those intending to appear at the 24 September 2021 CMC should notify the Registrar. If counsel wish to attend by AVL rather than in person, they should also let the Registrar know as soon as possible.

2022 CMCs

[223] The following dates have been set for the 2022 CMCs. All but Whangarei have been confirmed.

Wellington:	Monday 30 May 2022
Dunedin:	Wednesday 1 June 2022
Nelson:	Thursday 2 June 2022
Gisborne:	Wednesday 8 June 2022
Tauranga:	Thursday 9 June 2022
Rotorua:	Friday 10 June 2022
Hamilton:	Tuesday 14 June 2022
New Plymouth:	Wednesday 15 June 2022
Whangarei:	Tuesday 21 June 2022
Auckland:	Wednesday 22 June 2022

[224] Unless the Court has directed otherwise, all counsel are to file and serve, no later than 30 days prior to the CMC at which each application is to be called, a memorandum detailing what progress has been made towards hearing, what engagement there has been with overlapping parties and what directions the applicant seeks from the Court. Any applications for orders to be made on the papers, excusal of counsel from attendance or attendance by AVL should be included in the memorandum.

Churchman J

Solicitors:

Wellington:

Lyall & Thornton, Auckland for CIV-2017-485-273
Bennion Law, Wellington for CIV-2017-485-254, CIV-2017-485-261, CIV-2017-485-217,
and CIV-2017-485-259
Kahui Legal, Rotorua and Wellington for CIV-2017-485-221, CIV-2017-485-229,
CIV-2017-485-301, CIV-2017-485-211, and CIV-2017-485-220
Te Haa Legal Ltd, Wellington for CIV-2017-485-214
Tamaki Legal, Auckland for CIV-2017-485-232, CIV-2017-485-267, and CIV-2017-485-226
Ranfurlly Chambers Ltd, Auckland for CIV-2017-404-479 and CIV-2017-404-481
D Edmunds, Porirua for CIV-2017-485-258
McCaw Lewis, Hamilton for CIV-2017-485-224
Thompson O'Neill & Co, Eltham for CIV-2017-485-260
Whaia Legal, Wellington for CIV-2017-485-248
L Watson, Napier for CIV-2017-485-193
Burley Castle Hawkins, Tauranga for CIV-2017-485-309
Hokotehi Moriori Trust, Waitangi for CIV-2017-485-316
Crown Law Office, Wellington for Attorney-General

Dunedin:

Bell Gully, Wellington for CIV-2017-485-280
R Fife for CIV-2017-485-295
OceanLaw New Zealand, Nelson for CIV-2017-485-296
Crown Law Office, Wellington for Attorney-General

Nelson:

Burley Castle Hawkins, Tauranga for CIV-2017-485-167
Bennion Law, Wellington for CIV-2017-485-171, CIV-2017-485-172 and CIV-2017-485-182
Clifton Chambers, Wellington for CIV-2017-485-218
Radich Law, Blenheim for CIV-2017-485-251
Chapman Tripp, Christchurch for CIV-2017-485-266
Te Pātaka o Te Mana Tangata Chambers, Auckland for CIV-2017-485-365
Ross Dowling Marquet Griffin, Dunedin for West Coast Regional Council
Crown Law Office, Wellington for Attorney-General

Gisborne:

Hockly Legal, Auckland for CIV-2011-485-794
Lyall & Thornton, Auckland for CIV-2017-485-288 and CIV-2017-485-255
Tamaki Legal, Auckland for CIV-2017-485-247
Foster Milroy Solicitors, Hamilton for CIV-2017-404-571
Mac & Co Lawyers, Auckland for CIV-2017-485-289
Kahui Legal, Wellington for CIV-2017-485-302, CIV-2021-485-303, CIV-2021-485-304,
CIV-2021-485-305, CIV-2021-485-306, and CIV-2021-485-307
Whaia Legal, Wellington for CIV-2017-485-314
Te Haa Legal, Ōtaki for CIV-2017-485-242
Crown Law Office, Wellington for Attorney-General

Tauranga:

McCaw Lewis, Hamilton for CIV-2011-485-793, CIV-2017-485-222
Whaia Legal, Wellington for CIV-2017-485-196, CIV-2017-485-793, and CIV-2011-485-817
Kaupare Law, Auckland for CIV-2015-485-767
Phoenix Law Limited, Wellington for CIV-2017-485-770 and CIV-2017-485-514
Foster Milroy Solicitors, Hamilton for CIV-2017-404-480, CIV-2017-404-483, and
CIV-2017-404-528
Lyall & Thornton, Auckland for CIV-2017-404-556
Legal Hub Lawyers, Auckland for CIV-2017-404-562
Corban Revell Lawyers, Auckland for CIV-2017-404-568
Te Haa Legal, Ōtaki for CIV-2017-485-219
Koning Webster Lawyers, Papamoa for CIV-2017-485-233, CIV-2017-485-195, and CIV-2017-485-219
J N Gear, Tauranga for CIV-2017-485-244
Bennion Law, Wellington for CIV-2017-485-250

Kahui Legal, Wellington for CIV-2017-485-294 and CIV-2017-485-317
Tu Pono Legal Limited, Rotorua for CIV-2017-485-291
L Watson for CIV-2017-485-227

Interested parties:

Crown Law Office, Wellington for Attorney-General
Holland Beckett Law, Tauranga for Tumu Kaituna 14 Trust, Carrus Corporation Ltd, Ford Land Holdings
and Sunchaser Investments, and Port of Tauranga Ltd
Brookfields, Auckland for Hauraki, Thames-Coromandel and Whakatane District Councils
Cooney Lees Morgan for Bay of Plenty Regional Council

Hamilton:

Foster Milroy Solicitors, Hamilton for CIV-2017-404-526
McCaw Lewis, Hamilton for CIV-2017-404-575
Te Mata Law Limited, Auckland for CIV-2017-419-81
Loader Legal, Auckland for CIV-2017-419-82
Bennion Law, Wellington for CIV-2017-485-207
Atkins Holm Majurey Ltd, Auckland for CIV-2017-485-202
Tukau Law Limited, Kaikohe for CIV-2017-419-80, CIV-2017-485-216, and CIV-2017-485-209
Annette Sykes & Co, Rotorua for CIV-2017-419-83
Kahui Legal, Wellington for CIV-2017-419-84
Tu Pono Legal Limited, Rotorua for CIV-2017-419-85
Crown Law Office, Wellington for Attorney-General

Rotorua:

Legal Hub Lawyers, Auckland for CIV-2011-485-817, CIV-2017-485-264, CIV-2017-485-375,
CIV-2017-485-269, and CIV-2017-485-278
T J Castle, Wellington for CIV-2017-485-185
Te Mata Law Limited, Auckland for CIV-2017-485-238
Bennion Law, Wellington for CIV-2017-485-253
Kāhui Legal, Wellington for CIV-2017-485-318
Lyll & Thornton, Auckland for CIV-2017-485-201, CIV-2017-485-270, CIV-2017-485-272,
and CIV-2017-485-355
Wackrow Williams & Davies Ltd, Auckland for CIV-2017-485-377 and CIV-2017-485-262
Foster Milroy Solicitors, Hamilton for CIV-2017-404-482
Annette Sykes & Co, Rotorua for CIV-2017-485-299 and CIV-2017-485-292
Phoenix Law Limited, Wellington for CIV-2017-485-513

Interested parties:

Crown Law Office, Wellington for Attorney-General
Brookfields, Auckland for Thames-Coromandel District Council

New Plymouth:

M Robinson, Manaia for CIV-2011-485-797
Oranganui Legal, Paraparaumu for CIV-2011-485-803
A J Webb, Auckland for CIV-2011-485-814
Whaia Legal, Wellington for CIV-2017-485-183
Bennion Law, Wellington for CIV-2017-485-210 and CIV-2017-485-213
Kāhui Legal, Wellington for CIV-2017-485-212, CIV-2017-215, CIV-2017-485-310 and
CIV-2017-404-534
D Edmunds, Porirua for CIV-2017-485-243
OceanLaw New Zealand, Nelson for CIV-2017-485-282
D W More, Hawera for CIV-2017-485-293
C Scott, Whanganui for CIV-2017-485-300
Crown Law Office, Wellington for Attorney-General

Whangarei:

Foster Milroy Solicitors, Hamilton for CIV-2017-404-442, CIV-2017-404-522, CIV-2017-404-535, and CIV-2017-404-540
Lyll & Thornton, Auckland for CIV-2017-485-239, and CIV-2017-404-523
Corban Revell, Auckland for CIV-2017-404-566, and CIV-2017-404-572
Oranganui Legal, Paraparaumu for CIV-2017-404-570
Eldon Chambers, Auckland for CIV-2017-485-208
Hockly Legal, Auckland for CIV-2017-485-228, CIV-2017-485-305, and CIV-2017-485-352
McCaw Lewis, Hamilton for CIV-2017-485-237, CIV-2017-404-537, CIV-2017-485-208, CIV-2017-485-240, and CIV-2017-485-398
Bennion Law, Wellington for CIV-2017-485-250
Dixon & Co Lawyers, Auckland for CIV-2017-485-286, CIV-2017-485-281, CIV-2017-485-307, CIV-2017-485-279, and CIV-2017-485-438
RightLaw, Auckland for CIV-2017-404-573
OceanLaw New Zealand, Nelson for CIV-2017-485-283
Zwaan Legal, Wellington for CIV-2017-485-298
Kahui Legal, Rotorua for CIV-2017-485-308, and CIV-2017-485-510
Phoenix Law Limited, Wellington for CIV-2017-485-398, and CIV-2017-485-515
Harrison Stone, Auckland for CIV-2017-485-420
Tamaki Legal, Auckland for CIV-2017-404-529, CIV-2017-404-577, CIV-2017-404-578, CIV-2017-485-265, CIV-2017-485-245, and CIV-2017-485-252
Afeaki Chambers, Auckland for CIV-2017-404-546, CIV-2017-404-579, and CIV-2017-485-268
Annette Sykes & Co, Rotorua for CIV-2017-485-277
Whaia Legal, Wellington for CIV-2017-485-290
Chapman Tripp, Auckland for CIV-2017-485-271
Tukau Law, Auckland for CIV-2017-485-231, CIV-2017-485-577, CIV-2017-488-26, and CIV-2017-485-237
Manaia Legal, Auckland for CIV-2017-485-408, CIV-2017-485-409, CIV-2017-485-306, and CIV-2017-488-29
MinterEllisonRuddWatts, Auckland for CIV-2009-488-205
Legal Hub, Auckland for CIV-2017-404-525, CIV-2017-404-554, and CIV-2017-404-559
Berry Simons, Auckland for CIV-2017-485-320

Interested parties:

Crown Law Office, Wellington for Attorney-General
Kaupare Law & Consultancy, Auckland for Ngāti Rehia
Brookfields Lawyers, Auckland for Kaipara District Council
Te Mata Law Limited, Auckland for Sheena Ross
Marsden Woods Inskip & Smith for Northport Ltd and Refining New Zealand
Thomson Wilson, Whangarei for Lang's Beach Society Incorporated

Auckland:

Chen Palmer, Auckland for CIV-2017-404-563
Tamaki Legal, Auckland for CIV-2017-404-518 and CIV-2017-404-580
Lyll & Thornton, Auckland for CIV-2017-404-574, CIV-2017-485-378 and CIV-2017-404-524
Chapman Tripp, Auckland for CIV-2017-404-520
McCaw Lewis Limited, Hamilton for CIV-2017-404-564
Berry Simons, Auckland for CIV-2017-404-582
Annette Sykes & Co, Rotorua for CIV-2017-485-276

Interested parties:

Crown Law Office, Wellington for Attorney-General
Richard Gardner Law, Auckland for Manaia Properties Ltd