

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

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

CIV-2011-485-793

IN THE MATTER OF The Marine and Coastal Area (Takutai
Moana) Act 2011

IN THE MATTER OF Application by Colin Francis Reeder and Ors
on behalf of Ngā Pōtiki a Tamapahore trust
for an order recognising Customary Marine
Title and Protected Customary Rights

On the papers: At Auckland

Date of Minute: 13 July 2021

**MINUTE (No. 11) OF POWELL J
[Ngā Pōtiki Minute No. 20]**

[1] A final timetable for the Ngā Pōtiki Stage 2 hearing was set out in my Minute (No. 9) on 10 June 2021. This provided that remaining applicant evidence was to be filed by 5 pm on 16 July 2021, any further interested parties' evidence by 5 pm on 13 August 2021, and any necessary specific reply evidence by 5 pm on 1 September 2021. The last date in particular is constrained by the need to produce an electronic bundle before the hearing begins on 13 September 2021.

[2] Against that background counsel for Ngā Pōtiki have advised that due to three recent bereavements they are not in a position to meet the 16 July 2021 deadline and sought an extension to 26 July 2021. The Ngā Pōtiki request was circulated to the other applicants and interested persons; in response two other applicant groups indicated that they would have difficulty complying with the 16 July deadline while Te Rūnanga o Ngāti Awa opposed any further extensions being granted. As Ms Irwin-Easthope submitted on behalf of Te Rūnanga o Ngāti Awa the present timetable was the result of considerable discussion and ultimately agreement among the parties and any extensions will likely prejudice the Ngāti Awa hapū involved in Stage 2. In the event that an extension was granted Ms Irwin-Easthope submitted that it should be limited to 21 July 2021.

[3] Ms Irwin-Easthope's submissions opposing the extensions are well made. However, it is necessary for this Court to attempt to find a path that gives all parties sufficient time to prepare while not losing sight of the fact that the Stage 2 hearing is now imminent and that if the present fixture is lost its replacement is likely to be more than a year away.

[4] In the circumstances I conclude that dealing with applications for extensions on an ad hoc basis as and when they arise will only create confusion and be likely to lead to further applications for extensions at a point when there is even less capacity to accommodate those in the time available. Instead I have determined there should be one final amendment to the timetable order, enlarging time for all applicants and interested persons. This will have the effect of reducing the times available for the filing of reply evidence, but as I indicated in my Minute (No. 9) genuine issues of conflict are better addressed through questioning at the hearing rather than through reply briefs in any event. I also agree that the extension sought by Ngā Pōtiki cannot

be accommodated in the time available without consequential unfairness inevitably resulting, and therefore the extension will be limited to a further five days in each case.

[5] Taking these matters together I therefore replace the current timetable with the following:

- (a) any further applicant evidence is to be filed by **5 pm on 21 July 2021**;
- (b) any further interested parties' evidence is to be filed by **5 pm on 18 August 2021**; and
- (c) if necessary, any specific reply evidence is to be filed by **5 pm on 1 September 2021**.

[6] No further extensions of time for filing will be approved. Any specific evidence in chief sought to be relied upon by applicants or interested parties after the due dates set out above will need the leave of the Court before it is accepted for filing or included in the electronic bundle.

Powell J