

**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 Tamapāhore Trust
for an order recognising Customary Marine
Title and Protected Customary Rights

Hearing 18 October 2021

Appearances J Mason for Te Rūnanga o Ngāti Whakaue ki Maketu

Date of Minute: 19 October 2021

MINUTE (No. 17) OF POWELL J
[Ngā Pōtiki – Minute No. 26]

[1] Ms Mason, as counsel for Te Rūnanga o Ngāti Whakaue ki Maketu Incorporated (“the Rūnanga”), has by way of memorandum applied for permission for the chairperson of the Rūnanga, Moerangi Pōtiki, to leave Auckland.

[2] The stated purpose of the application is to enable Ms Pōtiki “to participate in kanohi-ki-te-kanohi tikanga practices prior to the applicant’s case being heard, and to appear with her fellow witnesses in person”. In the alternative Ms Mason seeks for the Rūnanga’s case to be adjourned until after it “has been able to prepare kanohi-ki-te-kanohi, as is their tikanga”.

[3] The application for Ms Pōtiki to travel is misconceived. While approval can be given by the Court where the appearance in person of a particular counsel or witness is necessary in the public interest, the Court has no broader jurisdiction to give permission for travel to enable participation “in kanohi-ki-te-kanohi tikanga practices”.

[4] Furthermore, even if Ms Pōtiki’s appearance in person was necessary at the hearing (and there is insufficient information provided in the memorandum for this to be determined) such travel would be subject to strict conditions to ensure Ms Pōtiki did not interact with court staff, counsel and/or witnesses involved in the hearing, let alone the wider members of the community. Instead, for an application to be approved applications need to provide explicit detail as to how it is proposed such contact is to be avoided, including specifically with regard to travel, accommodation and arrangements in Court, none of which have been provided in the present case.

[5] Given this position the application must be and is declined.

[6] There is likewise no basis to grant an adjournment of the Rūnanga’s case in the Ngā Pōtiki Stage 2 hearings. While the Covid 19 restrictions do provide difficulties for all parties there is no information provided as to why Ms Pōtiki cannot discuss the case using the means that are available or indeed why it is necessary that she meets in person with the rest of the applicant group before the case can be presented, given all of the evidence has in fact already been filed for some time. As a result, it is difficult

to see how any particular prejudice arises and the application to adjourn is also dismissed.

Powell J