

**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

Date of 21 October 2021
Conference:

Appearances: J Lewis for Ngā Pōtiki ā Tamapāhore Trust (by VMR)
 (CIV-2011-485-793)
 M Sharp for Ngāti Hē Hapū Trust (CIV-2017-485-219)
 T Bennion for Te Tāwharau o Ngāti Pūkenga
 (CIV-2017-485-250)
 J Gear for Ngāi Te Rangi Settlement Trust (CIV-2017-485- 244H)
 K Feint QC and I Peters for Ngā Hapū o Moutere o Motītī
 J Koning for Ngāti Whakahemo (CIV-2017-485-223)
 B Cunningham for Te Uri a Tehapū (CIV-2017-404-562) (by VMR)
 J Kahukiwa & J Harper-Hinton for Ngāti Whakaue
 (CIV-2017-404-568H) (by VMR)
 H Irwin-Easthope for Te Rūnanga o Ngāti Awa
 (CIV-2017-485-196)
 J Pou for Ngāti Makino Heritage Trust and Ngāti Pīkiao Iwi Trust
 (CIV-2017-485-291)
 C Bidois for Te Kapū o Waitaha Trust
 R Budd, A Goosen, and C Barnett for the Attorney General
 L Murphy for Ford Land Holdings PTY Limited, Te Tumu Kaituna 14
 Trust, Sunchaser Investments Limited Partnership and Carrus
 Corporation Limited
 B Scott & L Te Rata for Seafood Industry Representatives (by VMR)

Date of Minute: 22 October 2021

**MINUTE (No. 18) OF POWELL J
[Ngā Pōtiki Minute No. 27]**

[1] This Minute records the extension of the fixture to include a seventh week of hearing and the various directions made on the following issues at the judicial conference on 21 October 2021:

- (a) Status of evidence where witness unavailable.
- (b) Updated timetable.
- (c) Timetable directions.

Extension of hearing

[2] As I had previously explained to counsel after the amended timetable that was circulated on 19 October, I had real doubts as to whether, with the best will in the world, the hearing could be completed in the time allocated.

[3] In particular, it was noted we will lose Labour day and various Thursday afternoons as well as the fact that the amended timetable did not provide for the recall of Nepia Ranapia and Te Atarangi Sayers on the wahi tapu issue and there was otherwise no scope for further slippage of any kind. Given that position I concluded that an extra week of hearing was required and as previously been advised this has now been confirmed that the venue is available through to 12 November 2021.

[4] No further extension to hearing time at the venue can however be accommodated.

Status of evidence where witness unavailable

[5] Counsel have confirmed that no less than eight witnesses have either passed away or are unavailable to give evidence in the present hearing, namely:

- (a) Gloria Hirini;
- (b) Dr Moana Jackson;
- (c) Dr Hohepa (Joe) Mason;

- (d) Meremaihi Williams;
- (e) Professor Ta Hirini Moko Mead;
- (f) Barrie William Wilkinson;
- (g) Te Wano Walters;
- (h) Rosina Potiki

[6] Following discussion with counsel, and noting s 105 of the MACA, it was agreed that the appropriate approach for these witnesses (with one exception) is for the evidence to be taken as read, with the weight to be given to that evidence to be a matter for submissions. The one exception is the evidence of Dr Moana Jackson. While this evidence is also to be taken as read and the weight it is to be given will be a matter for submissions, counsel have noted that Dr Jackson gave similar evidence before the Waitangi Tribunal and it may be that agreement can be reached that excerpts from Dr Jackson's cross-examination can be filed.

[7] It is noted that the evidence of Matahihira Wikeepa has been removed by request.

Amended timetable

[8] The draft timetable, revised in the light of the extra hearing time available, was discussed. It is confirmed, subject to closing submissions commencing at 10 am on 8 November 2021.

Timetable directions

[9] Following discussion with counsel I made the following timetable directions:

- (a) counsel for the Te Tumu Kaituna 14 Trust is to file a memorandum by 5 pm on 22 October 2021 confirming the Trust's position (support/oppose/neutral) with regard to those applications to the CMCA to seaward of the block;

- (b) counsel for Ngā Hapū o Moutere o Motītī are to file the supplementary brief by Nepia Ranapia on wahi tapū issues within the Motiti application area by 1 pm on 26 October 2021;
- (c) counsel for the various Motiti applicants are to confer and file a document detailing the different applicant definitions and/or the similarities/differences between the different applicant definitions by 2 pm on 28 October 2021;
- (d) counsel generally are to confer and file appropriate definition(s) and associated mapping confirming the locations of key boundary markers (including Parakiri and Wairakei) by 2 pm on 28 October 2021;
- (e) all amendments to application areas and the associated mapping are to be confirmed and filed by 2 pm on 28 October 2021; and
- (f) closing submissions on behalf of all applicants and interested persons are to be filed by 3.30 pm on 5 November 2021. This date will be kept under review for the remainder of the hearing and in particular may be amended depending on when the evidence is completed;

Powell J