

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

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

**CIV-2017-485-316  
CIV-2017-485-217  
CIV-2017-485-309  
CIV-2017-404-479**

UNDER	the Marine and Coastal Area (Takutai Moana) Act 2011
BETWEEN	MAUI SOLOMON, AARON DONALDSON, THOMAS LANAUZE, GRACE LE GROS, MARK PREECE, SHARON WADSWORTH and PAUL SOLOMON as trustees of the Hokotehi Moriori Trust for and on behalf of Imi Moriori (CIV-2017-485-316)
AND	MAUI SOLOMON and ERIC SOLOMON for an behalf of the hunau of Tame Horomona Rehe (Tommy Solomon (deceased)) (CIV-2017-485-217)
AND	NGĀTI MUTUNGA O WHAREKAURI IWI HAPŪ AND WHĀNAU (CIV-2017-485-309)
AND	JACK DAYMOND for and on behalf of Te Aitanga o Ngā Uri o Wharekauri (CIV-2017-404-479)

On the papers:

Counsel: C Griggs for CIV-2017-485-316  
T Bennion and E Whiley for CIV-2017-485-217  
T Castle for CIV-2017-485-309  
C Hirschfeld for CIV-2017-404-479

Minute: 30 November 2021

---

**MINUTE (NO. 16) OF CHURCHMAN J  
[CMC – Rekohu/Chatham Islands/Wharekauri]**

---

[1] In a minute of 31 May 2021,<sup>1</sup> in respect of these applications for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act), I adjourned these proceedings for 12 months until the 2022 round of case management conferences (CMCs).

[2] I directed that they would be allocated a telephone conference on 1 December 2021 for counsel to update the Court with progress. I indicated that counsel were to file memoranda detailing progress and other relevant issues no later than five working days prior to 1 December 2021.

[3] Counsel in CIV-2017-485-217 and CIV-2017-485-316 complied with that direction filing a joint memorandum dated 24 November 2021.

[4] The joint memorandum confirms that Te Arawhiti has approved the applicants' funding application and that the applicants were now working to advance the joint commissioning of historical evidence. The memorandum stated that counsel were working towards providing a firm time estimate for the hearing by the 2022 Wellington CMC. Counsel sought that their attendance at the 1 December 2021 CMC be excused and the CMC adjourned.

[5] Those applications are granted and these two proceedings are adjourned until the Wellington CMC scheduled for 30 May 2022.

[6] A memorandum from Mr Castle, counsel for CIV-2017-485-309, was received on 30 November 2021. The memorandum records that the applicant remains engaged in Treaty negotiations and that this caused time and financial constraints. It also referred to the current legislative process relating to the Moriori Claims Settlement Bill and, without providing details, said that there were "issues arising from this legislative process which the applicant is currently assessing". It is unclear what these issues are and how they might be relevant to this application under the Act.

---

<sup>1</sup> In the matter of applications by Te Whānau Tima and Te Hapū o Te Mateawa and Ors in relation to orders under the Marine and Coastal Area (Takutai Moana) Act 2011, *Minute (No. 4) of Churchman J (Case Management Conferences 2021)* 31 May 2021.

[7] The memorandum referred to the advice given to the Court prior to the CMC of 31 May 2021 which was that the applicant had then been engaged in discussions with Te Arawhiti regarding funding. The memorandum stated the applicant was yet to receive confirmation of funding levels in respect of its application under the Act. This is a matter of concern to the Court. At [11] of the minute of 31 May 2021,<sup>2</sup> counsel for the Attorney-General was asked to liaise with Te Arawhiti to see whether any current obstacles to finalising funding can be overcome with the object of permitting this application and the others with which it overlaps to be set down for hearing in early 2023.

[8] The Court repeats the observation made in the 31 May 2021 minute,<sup>3</sup> it would be unfortunate if a lack of appropriate funding meant that the Court was unable to make the most efficient use of its resources and hear these four overlapping applications together.

[9] Counsel requests the CMC scheduled for 1 December 2021 is adjourned to the next round of CMCs in May 2022. That application is granted and counsel's attendance on 1 December 2021 excused. However, the Court expects that, at least five working days prior to the May 2022 CMC that counsel will file a memorandum which specifically explains what interactions counsel has had with Te Arawhiti and what impediments there are to finalising funding.

[10] Mr Hirschfeld, counsel for CIV-2017-404-479, filed a memorandum dated 29 November 2021.

[11] Apart from referring the Court to information provided in a memorandum filed on 21 May 2021 CMC, it provides little information other than that counsel is unavailable "for most of the second half of next year". This represents a significant change from the position outlined in counsel's memorandum of 21 May 2021 which had expressed the view that this application was likely to be ready to proceed to trial in the second half of 2022.

[12] This application is adjourned until the Wellington CMC on 30 May 2022. No later than five working days prior to that CMC, counsel is to file a memorandum

---

<sup>2</sup> Above n 1.

<sup>3</sup> At [10].

addressing the applicant's readiness for hearing and detailing progress made in that regard since 31 May 2021. If there are funding impediments or other obstacles hindering the timetabling towards a hearing date, counsel is to specify these.

[13] Counsel's attendance at the CMC on 1 December 2021 is excused.

[14] In addition to the directions to update the Court in respect of funding issues, no later than five working days prior to the CMC scheduled for 30 May 2022, all counsel are directed to update the Court on the progress of their applications towards timetabling.

A handwritten signature in black ink, reading "P.B. Churchman J". The signature is written in a cursive, flowing style. The "P.B." is written in a smaller, more compact script, followed by "Churchman" in a larger, more legible cursive, and "J" at the end.

**Churchman J**