

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

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

CIV-2011-485-247

UNDER	the Marine and Coastal Area (Takutai Moana) Act 2011
IN THE MATTER OF	an application by Roger Tichborne on behalf of Ngā Hapū o Tokomaru Ākua, for orders recognising Customary Marine Title and Protected Customary Rights

Teleconference: 29 March 2022

Counsel: C Hirschfeld and S M Yogakumar for CIV-2011-485-247
N Milner for CIV-2017-485-302
B Lyall for CIV-2017-485-255
D Ward and C Barnett for Attorney-General

Minute: 29 March 2022

MINUTE (NO. 4) OF CHURCHMAN J

[1] A case management conference (CMC) was held today to address timetabling and related issues in this matter.

[2] By memorandum of 25 March 2022, counsel for Ngā Hapū o Tokomaru Ākau (NHOTA) sought a variation of the timetable set out in my minute of 5 July 2021. As a result of various difficulties detailed in the memorandum, leave was sought to amend the date for the filing of the applicant's evidence from 4 April 2022 to 22 April 2022.

[3] None of the counsel participating in the CMC objected to that variation.

[4] However, amending that date required consequential amendments of other dates.

[5] Mr Ward, for the Attorney-General, had circulated a draft memorandum with a proposed revised timetable. He spoke to that and no opposition was received. Accordingly, by consent, I vary the timetable directions made in the minute of 5 July 2021 as follows:

- (a) all applicants' briefs of evidence, as well as those of any interested parties other than the applicant in CIV-2017-485-255 and the Attorney-General are to be filed and served no later than **22 April 2022**;
- (b) the briefs of evidence of the interested party in CIV-2017-485-255 are to be filed and served no later than **2 May 2022**;
- (c) the briefs of evidence of the Attorney-General are to be filed and served no later than **15 July 2022**;
- (d) any reply briefs from the applicants or interested parties (other than the applicant in CIV-2017-485-255) are to be filed and served no later than **12 August 2022**;
- (e) the close of pleadings date is **12 August 2022**; and
- (f) opening submissions are to be filed and served no later than **26 August 2022**.

Pukenga

[6] Dr Robert Joseph has been proposed to be the pukenga in this matter. That suggestion is supported by all of the applicants, and I confirm his appointment.

[7] At the teleconference, we discussed the questions that should be addressed to the pukenga. Counsel agreed that three questions were appropriate:

- (a) What tikanga does the evidence establish or support applies in the application area?
- (b) What aspects of tikanga should influence the assessment of whether or not the area in question, or any part of it, is held in accordance with tikanga?

- (c) Having regard to the evidence, what tikanga is relevant to the protected customary rights claimed by the applicants?

[8] As I indicated to counsel, it is possible that, during the course of the hearing, a further tikanga issue or issues may arise, and the pukenga's assistance may be requested.

[9] There were a number of interested parties who, although notified of the CMC, did not participate in it. These include the Gisborne District Council, the Landowners Coalition, the Council of Outdoor Recreation, and the Seafood Industry Representatives.

[10] I direct that a copy of this minute be forwarded to each of them. If any of them no longer wish to participate in the hearing, I ask that they notify the Registrar accordingly.

Churchman J