

**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

On the papers      At Auckland

Date of Minute:    30 March 2022

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**MINUTE (No. 25) OF POWELL J**  
[Ngā Pōtiki – Minute No. 34 – Directions regarding  
Status of Motiti Report of Waitangi Tribunal]

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[1] Counsel have advised that the Waitangi Tribunal has released its report in respect of the WAI 2521 enquiry entitled “Motiti: Te Moutere o Motiti” on 22 March 2022. It is noted at the outset that the fact of the enquiry had been noted in the Ngā Pōtiki Stage 2 hearings, as had the likely timeframe for the release of the Report.

[2] By joint memorandum counsel for Te Rūnanga o Ngāti Awa and the Ngāi Te Rangi Settlement Trust have sought leave to file the Report in this Court. The joint memorandum does not specify the basis upon which the Report is purported to be filed.

[3] Counsel for Ngā Hapū o Te Moutere o Motiti, Te Uri a Te Hapū and Rangi Butler on behalf of Ngāi Te Hapū applicants have filed a memorandum in response, essentially objecting to this Court considering the Report on any basis, making submissions as to the status of the Report, and whether it should be considered as evidence or as a judgment.

## **Discussion**

[4] It is difficult on the information presently available to reach any conclusion as to whether it is appropriate or necessary for this Court to refer to the Report. It is not clear what counsel for Te Rūnanga o Ngāti Awa and Ngāi Te Rangi are attempting to convey by the request that the Report be “filed” with the Court. There are already a number of other Waitangi Tribunal Reports referred to by different parties in both Stages of the Ngā Pōtiki hearings, but rather than being filed these have to date been included in the bundles of authorities provided in support of the submissions made by the parties.

[5] As counsel for Ngā Hapū o Te Moutere o Motiti, Te Uri a Te Hapū and Rangi Butler have pointed out a Waitangi Tribunal Report does not fit easily as either evidence or a judgment and a number of admissibility issues arise. Before I determine the status of the report it is necessary to also consider the relevance of the Report to the MACA applications before me and, in the event it is relevant, what weight if any the parties contend the Court should give to the conclusions reached by the Tribunal contained in the Report.

[6] I therefore direct that any party wishing to be heard on this issue provides submissions on:

- (a) the status of the Report (how it should be categorised and the basis it can be considered by this Court);
- (b) its relevance;
- (c) what weight (if any) should be given to the Report.

[7] Those submissions are to be filed:

- (a) by those advocating this Court consider the report by **14 April 2022**; and
- (b) by those opposing this Court considering the Report to file in response by **28 April 2022**.

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Powell J