

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

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

CIV-2017-485-302

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

On the papers:

Counsel: N R Milner for Te Whānau a Ruataupare ki Tokomaru
B Scott for Seafood Industry Representatives

Minute: 27 April 2022

MINUTE (NO. 5) OF CHURCHMAN J

*E te matua Tate moe mai, moe okioki mai rā, te hunga mate ki te hunga mate,
tātou te hunga ora kia tātou*

[1] There are two applications before the Court to vary the timetable directions set out in my minute of 29 March 2022.¹

[2] The first memorandum is filed on behalf of Te Whānau a Ruataupare ki Tokomaru and advises the Court that the named claimant Tate Pewhairangi has recently passed away with the tangi being held on 17 April 2022. As a result of this, counsel asks for an amendment so that instead of his client's briefs of evidence being required to be filed on 22 April 2022, they are to be filed by 6 May 2022.

¹ Minute (No. 4) of Churchman J, 29 March 2022.

[3] Consequential amendments are sought in that:

- (a) the briefs of evidence of the interested parties in CIV-2017-485-255 are to be filed and served no later than **16 May 2022** instead of 2 May 2022; and
- (b) the briefs of evidence of the Attorney-General are to be filed and served no later than **29 July 2022** rather than 15 July 2022.

[4] There is no change to the following directions:

- (a) the 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**, and the close of pleadings date is to be **12 August 2022**; and
- (b) opening submissions are to be filed and served no later than **26 August 2022**.

[5] Counsel's memorandum indicated that most of the other parties involved in this hearing have been contacted and have not raised any objection to the amended timetable.

[6] Given the circumstances, it is appropriate that the directions sought be granted and I amend the timetable accordingly. I deal separately with the interested party, Seafood Industry Representatives (SIR).

[7] SIR have also recently filed a memorandum seeking variation to the timetable order. SIR seek variation to the effect that any evidence filed by them is to be filed on 15 July 2022 (the same date that the evidence to be filed by Attorney-General is due). As the result of the amendment to the timetable order made above, that date is now 29 July 2022.

[8] The reason for this is submitted to be that:

- (a) the SIR are likely to file evidence regarding the nature and extent of commercial fishing activities within the application area from 1840 to the present date; and

- (b) the evidence to be filed by the SIR will, in part, be in response to evidence filed by the applicants and therefore it will be most efficient for all parties if SIR are able to consider the applicant's evidence before filing their own.

[9] It is also submitted that the evidence to be filed by the SIR is likely to be more akin to what is filed by the Crown so is appropriate it be filed at the same as the Attorney-General's evidence. It is submitted that the variation sought would not lead to material prejudice to the other parties as the current timetable allows for reply evidence to be filed on 12 August 2022. It is noted that the SIR do not anticipate filing substantial evidence.

[10] The memorandum of counsel does not indicate whether the views of the applicants or other interested parties have been sought in respect of this application for a variation. I therefore am obliged to address the application not knowing the views of any of the parties that might be affected by it.

[11] The most efficient way of dealing with the application is to grant the variation as sought and allow SIR to file their evidence at the same time as the Attorney-General (now 29 July 2022) but to reserve leave for any party adversely affected by it to come back to the Court within five working days of receipt of this minute to revisit the issue.

Outcome

[12] Both applications are granted as sought with leave reserved for any party adversely affected by the SIR application to seek to revisit these directions.

Churchman J