

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

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

**CIV-2017-485-273
CIV-2017-485-214
CIV-2017-485-261
CIV-2017-485-254
CIV-2017-485-260
CIV-2017-485-211
Group N**

UNDER the Marine and Coastal Area
(Takutai Moana) Act 2011

IN THE MATTER OF an application for orders recognising
Customary Marine Title and Protected
Customary Rights

BY Patrick Seymour on behalf of Te Whānau
Tima (Seymour) and Te Hapū o Te
Mateawa

Margaret Morgan Allen on behalf of
David Morgan Whānau

Muaūpoko Tribal Authority Incorporated
on behalf of Muaūpoko

Christopher Henare Tahana, Edward (Fred)
Clark, Hayden Tūroa, and Novena
McGuckin on behalf of Te Patutokotoko

Trustees of Tupoki Takarangi Trust (1996)
on behalf of Parangarahu 2B1 and
Parangarahu 2C and their descendants

Te Ātiawa ki Te Ūpoko o Te Ika a Maui
Potiki Trust

On the papers:

Counsel: B Lyall for CIV-2017-485-273
C Beaumont for CIV-2017-485-214
T Bennion for CIV-2017-485-261
L Black for CIV-2017-485-254
M Houra for CIV-2017-485-260
N Coates and L Underhill-Sem for CIV-2017-485-211
G Melvin for Attorney-General

Minute: 4 October 2022

MINUTE (NO 2) OF CHURCHMAN J

[1] On 14 September 2022, the Court issued a minute varying timetable orders in this matter. The minute was based on a joint memorandum filed by Mr Lyall, counsel in CIV-2017-485-273 and counsel in five other matters. I assumed that the proposed variation had been discussed and agreed to by all counsel involved in this matter. It appears that was not the case.

[2] On 23 September 2022, Mr Melvin, on behalf of the Attorney-General, filed a memorandum indicating that the Attorney-General had not been given an opportunity to comment on the proposed varied timetable. His concern was that the original timetable set at the case management conference in June 2023 had all parties filing opening submissions on the same date two weeks before the hearing and after the filing of a list of agreed facts, but the revised proposal had the Attorney-General and other interested parties filing submissions before the applicants. The Attorney-General is also concerned that the filing of some parties' opening submissions some weeks before the statement of agreed facts put some parties at a disadvantage.

[3] The Attorney-General sought an adjustment to the timetable for the Stage One hearings so that the filing date for all interested parties' opening submissions and bundles of authorities, including those of the Attorney-General, was two weeks before the hearing starts.

[4] Mr Lyall has now confirmed that the contents of the joint memorandum dated 2 September 2022 were incorrect and that the agreed position was the position outlined by the Attorney-General, namely that all interested parties would file submissions two weeks in advance of the hearing commencing along with their bundles of authorities. Accordingly, I make a further amendment to the timetable to that effect.

Crown engagement only applicants

[5] Mr Melvin in his memorandum of 23 September 2022, noted that the joint memorandum of counsel filed on 2 September 2022 suggested that the Attorney-General

should take responsibility for identifying and serving engagement only applicants who had failed to file notices of appearance. This was not a matter dealt with in my minute of 14 September 2022.

[6] Mr Melvin makes the point that although, as part of its Crown engagement process, Te Arawhiti intends to contact Crown engagement only applicants whose applications overlap the Group N area to advise them of the hearing and that funding is available to them under the Takutai Moana Financial Assistance Scheme should they chose to file a notice of appearance, it was not Te Arawhiti's role to advise those applicants as to whether they should file a notice of appearance or not.

[7] The position outlined by Mr Melvin is correct. The Act does not impose any obligations on Te Arawhiti in these circumstances. However, the Court is grateful for the indication that Te Arawhiti intend to draw the existence of the hearing to the attention of the Crown engagement only applicants. That way the potential injustice of the hearing proceeding without Crown engagement only applicants who have overlapping claims being aware of it is avoided.

Churchman J