

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

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

**CIV-2017-485-160  
CIV-2017-485-254  
CIV-2017-485-273  
CIV-2017-485-211  
CIV-2017-485-229  
CIV-2017-485-248  
CIV-2017-485-258  
CIV-2017-485-260  
CIV-2017-485-261  
CIV-2017-485-214  
CIV-2017-485-511  
CIV-2017-485-217  
CIV-2017-485-316  
CIV-2017-485-309  
CIV-2017-404-479**

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

On the papers:

Counsel: D Naden, S Roughton and H Fletcher for Muaūpoko Iwi (CIV-2017-485-160)  
L Black for Patutokotoko (CIV-2017-485-254)  
B Lyall for Te Whānau Tima and Te Hapū o Te Mateawa (CIV-2017-485-273)  
N Coates and A Houia-Ashwell for Tupoki Takarangī Trust  
(CIV-2017-485-211)  
N Coates, J Judge and T Hautapu for Ngāti Raukawa ki te Tonga  
(CIV-2017-485-229)  
T Ahu and K Tarawhiti for Te Ātiawa ki Whakarongotai (CIV-2017-485-248)  
D Edmunds for Williams (CIV-2017-485-258)  
M Houra for Te Ātiawa ki te Upoko o te Ika a Maui Potiki Trust  
(CIV-2017-485-260)  
T Bennion and E Whiley for Muaūpoko Tribunal Authority Incorporated  
(CIV-2017-485-261)  
C Beaumont for David Morgan Whānau (CIV-2017-485-214)  
C Shenton for Ngā Wairiki Ngāti Apa (CIV-2017-485-511)  
T Bennion and E Whiley for Hunau of Tame Horomona Rehe  
(CIV-2017-485-217)  
C Griggs for Moriori Imi Iwi (CIV-2017-485-316)  
T Castle for Ngāti Mutunga o Wharekauri (CIV-2017-485-309)

C Hirschfeld for Te Atianga o Ngā Uri o Wharekauri (CIV-2017-404-479)

Interested parties:

D Ward for Attorney-General

D Edmunds for Ngāti Toa Rangātira

Minute: 30 May 2023

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**MINUTE OF CHURCHMAN J**  
**[CMC – Wellington (No 4)]**

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**East Coast Wairarapa Group M Stage 1 applicants**

[1] Those applicants involved in the Group M Stage 1 hearings: Ngāi Tumapuhia-a-Rangi Hapū (CIV-2017-485-232); Tukōkō and Ngāti Moe (CIV-2017-485-267); Pirere Whānau (CIV-2017-485-226); Rangitane Tu Mai Rā Trust (CIV-2017-485-224); Te Ātiawa ki te Upoko o te Ika a Maui Potiki Trust (CIV-2017-485-260); Trustees of Pāpāuma Marae (CIV-2017-485-220); and Ngāti Kahungunu ki Wairarapa Tāmaki-nui-a-Rua Trust (CIV-2017-485-221) are all on track for hearing and had their appearance at the 6 June 2023 CMC excused in my minute of 28 April 2023.

**Group N Stage 1(a) hearing applicants**

[2] Te Whānau Tima and Ngā Ahi Ka o Te Hapū o Te Mateawa (CIV-2017-485-273); Te Patutokotoko (CIV-2017-485-254); and Taueki on behalf Ngāti Tamarangi Hapū of Muaūpoko Iwi (CIV-2017-485-160) have filed a joint memorandum dated 8 May 2023 advising that the applicants are proceeding in accordance with the timetable set in this matter.

[3] Counsel seek leave to be excused from attending the 6 June 2023 CMC. That request is granted.

[4] Separately, the applicant in CIV-2017-485-160, on 10 May 2023, filed a second amended originating application. While the named applicant remained William James Taueki, the application was sought to be varied so that instead of the application being on behalf of the Muaūpoko Iwi, it was to be on behalf of a hapū of that iwi, Ngāti Tamarangi.

[5] As that variation does not extend the nature or scope of the application, and there has been no opposition. It is granted.

[6] With the variation application, the applicants also filed an amended map which decreased the geographic area of the application so that, on the landward side, the northern boundary was the northern border of the Waitārere Forest and the southern boundary was the mouth of the Wairiri Stream. The map does not say where, in the mouth of the Wairiri Stream the boundary actually is, so I infer that it is a mid-point in the mouth of that stream.

[7] The seaward boundary is expressed as being the outer limits of the territorial sea and, although the amended map does not give precise coordinates, the lines drawn on that map appear to be 12 nautical miles from the coastline.

[8] Approval is granted for the filing of the appended application with its amended map.

*CIV-2017-485-211 – Tupoki Takarangi Trust*

[9] Counsel’s memorandum of 9 May 2023 confirmed that the seaward boundary of the application area are the coordinates set out in the map annexed as “A” in their application filed on 3 April 2017 and not the outer limits of the territorial sea. This means that none of the South Island applications overlap with this application.

[10] Counsel filed a further memorandum dated 29 May 2023 following receipt of the Court’s minute of 12 May 2023 dealing with seaward boundary issues. The memorandum confirmed that there were now no outstanding issues requiring attention at the 6 June 2023 Wellington CMC, and sought the excusal of counsel’s attendance. That request is granted.

*CIV-2017-485-248 – Te Atiawa ki Whakarongotai;*

*CIV-2017-485-229 – Ngāti Raukawa ki te Tonga;*

*CIV-2017-485-258 – Tiratu Williams and Patricia Grace on behalf of the owners of Hongoeka Blocks (Ngāti Toa Rangatira); and*

*MACA-01-12-021 – Ngāti Toa Rangatira (interested party)*

[11] Counsel for these applicants filed a joint memorandum on 5 May 2023. The memorandum records that these applicants have formed a “Confederation” with the objective of pursuing a collaborative approach to the Group N Stage 1(a) and Stage 1(b) hearings.

[12] The preparations of all of the applicants are well underway in accordance with the timetable directions. Counsel seek to be excused from the 6 June 2023 Wellington CMC. That request is granted.

*CIV-2017-485-260 – Te Atiawa ki te Upoko o Te Ika a Maui Potiki Trust*

[13] These applicants are also on track for participation in the hearing commencing in May 2024, and are engaging in discussions with overlapping applicants.

[14] Counsel’s request for excusal from attendance at the 6 June 2023 Wellington CMC is granted.

*CIV-2017-485-261 – Muaūpoko Tribal Authority*

[15] This applicant is involved in both the Group N Stage 1(a) and Stage 1(b) hearings. The memorandum of counsel confirmed that there were no matters in respect of which directions were sought in relation to the Stage 1 hearing, but that there were two issues in relation to the Stage 1(b) hearing.

[16] The memorandum recorded that this applicant group has determined not to seek formal orders under the Marine and Coastal Area (Takutai Moana) Act 2011 in respect of its customary interests in Te Tau Ihu and that the seaward boundary of its claims effectively runs down the “middle” of the Cook Strait. This means that none of the South Island applications are overlapped by the Muaūpoko Tribal Authority application.

[17] The second issue relates to the southeast boundary of the application. It appears that while the original application correctly identified the south-eastern of the application as being Turakirae, and this was identified on the map filed in support, the coordinates were incorrect, and related to a point west of the entrance to Wellington harbour.

[18] This discrepancy was drawn to the Court's attention in 2019 in the memorandum of counsel dated 11 June 2019. An amended application map was filed which included the correct latitude and longitude references.

[19] To the extent that there may be any residual doubt as to the south-eastern boundary of the application, this applicant seeks a formal order from the Court confirming that it is in fact Turakirae as depicted in the map that accompanied the original application, notwithstanding the incorrect latitude and longitude coordinates given in the original application but corrected in the 11 June 2019 memorandum.

[20] I am satisfied that it is appropriate to confirm the south-eastern boundary of the application area as being Turakirae. The reasons for this include the fact that because Turakirae is mentioned by name and clearly identified on the original application map as being the boundary, no cross-applicants or other parties are likely to have been misled as to what the actual boundary was; it is not a matter of the application being extended beyond the scope of the originally mapped area; there are no consequential effects on the existing timetabling to hearing and that the application falls within the guidelines set out in *Re Ngāti Pāhauwera*<sup>1</sup> and *Re Tipene*.<sup>2</sup>

[21] Accordingly, the south-eastern boundary of the application is confirmed as being Turakirae. The applicant is directed to file the precise latitude and longitude coordinates for Turakirae.

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<sup>1</sup> *Re Ngāti Pāhauwera* [2020] NZHC 1139.

<sup>2</sup> *Re Tipene* [2015] NZHC 16.

*CIV-2017-485-214 – David Morgan Whānau*

[22] The memorandum filed on behalf of this Group N Stage 1(a) applicant records that evidence preparation is underway and should meet the deadline of 16 October 2023. No other directions are required.

[23] Counsel's request to be excused from attending the 6 June 2023 Wellington CMC is granted.

*CIV-2017-485-511 – Ngā Wairiki Ngāti Apa*

[24] No updating memorandum has yet been received. The applicant is required to attend in person at the 6 June 2023 Wellington CMC.

[25] In the absence of memoranda being filed, or an appearance at the CMC, the applicant is at risk of having its application struck out for failing to take adequate steps to proceed with it.

*CIV-2017-485-217 – Hunau of Tame Horomona Rehe;*

*CIV-2017-485\_316 – Moriori Imi Iwi;*

*CIV-2017-485-309 – Ngāti Mutunga o Wharekauri; and*

*CIV-2017-404-479 – Te Atianga o Ngā Uri o Wharekauri*

[26] These four applications all relate to Rēkohu/Chatham Islands/Wharekauri. A joint memorandum of counsel dated 12 May 2023 related to CIV-2017-485-316 and CIV-2017-485-217.

[27] The memorandum recorded that all but two of the trustees of the Hokotehi Moriori Trust had changed and that the new trustees (who are the nominated applicants) are the existing two trustees, Thomas Lanauze and Mark Preece, with the following new trustees added: Hannah Maraea Solomon of Auckland, manager; Rana Lynette Solomon of Rēkohu, Council manager; Chas Karauria Taurima of Porirua, company director; Christine Anne Harvey of Christchurch, consultant; Lawrie Rewai Panapana Ryan of Rēkohu, fisherman; and Hayden McAlaister Preece of Canterbury, farmer. The change in the names of the trustees is noted.

[28] The memorandum recorded that there was a kōrero between the Trust's application and the whānau application for Tame Horomona Rehe which overlap. The memorandum records that the applicants are unlikely to be ready to proceed to a hearing before the last quarter of 2024.

[29] Counsel's attendance at the 6 June 2023 Wellington CMC is excused.

[30] Counsel for Ngāti Mutunga of Wharekauri (CIV-2017-485-309) filed a memorandum recording that this applicant's priority was its ongoing Treaty negotiations rather than advancing this claim. A project manager has been appointed and some steps have been taken towards appointing a historical researcher and gathering tangata whenua evidence. No engagement with overlapping applicants has yet occurred.

[31] The area covered by this application also extends to the Auckland islands where the overlapping applicant is Ngāi Tahu. The applicant is encouraged to promptly undertake kōrero with Ngāi Tahu.

[32] This applicant's application also extends to areas in Taranaki where the applicant has sought direct engagement.

[33] The applicant's request for excusal of the attendance of counsel at the 6 June 2023 Wellington CMC is granted.

[34] Counsel for the applicant in CIV-2017-404-479 (Te Atianga o Ngā Uri o Wharekauri) filed a memorandum dated 28 May 2023. The memorandum reported that historical research had yet to be completed although it appears that, with additional funding now having become available, that work can be progressed. It appears that tangata whenua evidence is not well advanced.

[35] The memorandum suggests that because of what are described as "polarised" relationships between the overlapping applicants, that a mediation process may be of assistance. There is a suggestion that the Crown may be prepared to assist in this regard. It is not for the Court to give instructions to the Crown as to what it might do in relation to mediating as between cross-applicants.

[36] Where there is an application to the Court for assistance in the nature of a judicial settlement conference, before ordering that, the Court needs to be satisfied that all, or a sufficient number, of the affected parties agree to participate in that process, and that it is likely that there may be some positive outcome which either resolves issues which otherwise would be in contention in the substantive hearing, or narrows the scope of such issues.

[37] If this applicant is serious about pursuing a mediated exercise, the first steps is to talk to all cross-applicants to ascertain whether they are prepared to participate in good faith in such a process.

[38] Counsel's request to be excused from attendance at the 6 June 2023 Wellington CMC is granted.

#### *Adjournments*

[39] All applications where the applicants are proceeding in accordance with timetable directions towards a firm hearing, are not adjourned to the 2024 Wellington CMC. Any issues that arise which would normally be the subject of a CMC are to be raised with the allocated hearing Judge who can determine whether a CMC is required or not.

[40] For those matters which do not presently have timetable directions to a hearing, the applications are adjourned for 12 months to be called at the 2024 Wellington CMC.

**Churchman J**