

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

**I TE KŌTI MATUA O AOTEAROA  
TŪRANGANUI-A-KIWA ROHE**

**CIV-2017-485-247, 255, 302**

BETWEEN	NGĀ HAPŪ O TOKOMARU ĀKAU Applicant
AND	TE WHĀNAU A RUATAUPARE KI TOKOMARU Applicant
AND	NGĀ WHANAŪ O HAUITI Interested Party
AND	SEAFOOD INDUSTRY REPRESENTATIVES Interested Party
AND	ATTORNEY-GENERAL Interested Party

Appearances: D C F Naden and S M Yogakumar for Applicant Ngā Hapū  
R A Siciliano and C T Mataira for Te Whānau A Ruataupare  
B R Lyall and H L B Swedlund for Whānau Hauiti  
B Scott and S Cvitanovich for Seafood Industry  
D A Ward and C C Barnett for Attorney-General

Minute No.4: 14 November 2023

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**MINUTE (No.4) OF CULL J**

[1] Since the hearing of these proceedings concerning Tokomaru Bay, Counsel have filed memoranda and advised the Court of three significant events.

[2] The first is the sad news of the passing of Roger Tichborne. I wish to acknowledge his passing and extend my condolences to his whanau and hapū. E te Kaumatua, Roger Tichborne, moe mai, moe mai, moe mai rā, te hunga mate ki te hunga mate, tatou to hunga ora ki a tatou.

[3] The second significant event is the agreement reached between the applicant hapū regarding mediation and their respective applications.

[4] Counsel have advised of the agreement reached at mediation by both Te Whānau a Ruataupare and Te Whānau Aotāwarirangi on the basis of any CMT order, that such an order can be made jointly with CMT being held by a new entity, established to represent the two hapū.

[5] In light of the more recent memoranda filed by Counsel, I consider that amended applications should be filed, together with such further submissions as I direct, to ensure the parties' positions are placed correctly on record.

[6] Thirdly, the Court of Appeal has now issued its judgment in *Re Edwards (On Appeal)*<sup>1</sup> of 18 October 2023.

[7] In light of the Court of Appeal's decision, and the parties' reliance on the first instance decisions of Churchman J, it is appropriate that the parties be given an opportunity to file supplementary submissions on the direct implications for the Tokomaru Bay proceeding.

[8] Counsel for the parties have filed respective memoranda containing proposed timetable orders which vary slightly and in the circumstances, I make the adjustment to the timetable directions below.

[9] On the basis of Counsels' memoranda, I am assuming that the supplementary submissions will be dealt with on the papers.

[10] **Accordingly**, I make the following directions:

1. The applicants are to file amended applications to reflect the agreement reached at mediation on 14 August 2023.

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<sup>1</sup> *Whakatōhea Kotahitanga Waka (Edwards) & Ors v Te Kāhui and Whakatōhea Māori Trust Board & Ors* [2023] NZCA 504.

2. Leave is granted for the parties to file supplementary submissions regarding the *Re Edwards (On Appeal)* decision in accordance with the following timetable direction:

(a) The applicants are to file their supplementary submissions by **7 December 2023**; and

(b) The Attorney-General, the Seafood Industry Representatives and other interested parties are to file their supplementary submissions by **21 December 2023**.

**Cull J**