

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

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

**CIV-2017-404-529
CIV-2017-404-537
CIV-2017-404-539
CIV-2017-404-540
CIV-2017-404-565
CIV-2017-404-570
CIV-2017-404-559
CIV-2017-485-233
CIV-2017-485-236
CIV-2017-485-249
CIV-2017-485-298
CIV-2017-485-398**

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

IN THE MATTER of an application by VIOLET WALKER
(prev NUKI ALDRIDGE (NICHOLAS
SMITH)) on behalf of TE WHĀNAU-O-
RĀTĀROA

Continued ...

Hearing: 13 December 2023

Appearances: D Naden, S Roughton and A Johns for Te Whānau-o-Rātāroa in
CIV-2017-404-529, Ngāi Tūpango in CIV-2017-485-233 and
Ngāti Kawau, Ngāti Awa in CIV-2017-404-539

Continued ...

Date of Minute 14 December 2023

MINUTE OF CHURCHMAN J

Continued ...

- AND an application by JOSEPH KINGI on behalf of NGĀPUHI NUI TONU, NGĀTI RAHIR, NGĀ TĀHUHU and NGĀITAWAKE
- AND an application by RIHARI DARGAVILLE for NGĀTI KAUWAU, NGĀTI AWA WHANGAROA
- AND an application by RICHARD MCGRATH and MARAINA MCGRATH for NGĀTI TOREHINA KI MATA-URE Ō HAU
- AND an application by RIHARI DARGAVILLE on behalf of NGĀITAWAKE
- AND an application by HONOURABLE DOVER SAMUELS of Ngāti Kahu at Matauri and adjacent coastline
- AND an application by JANE HOTERE, ROSARIA HOTERE, ANANIA WIKAIRA for TE HIKUTU HAPU
- AND an application by HECTOR BUSBY for NGĀTI KAHU and TE RARAWA and TE URIOHINA
- AND an application by MICHAEL JOHN WILLIAMS on behalf of NGĀI TŪPANGO
- AND an application by TE RŪNANGA O WHAINGAROA TRUST for NGĀPUHI/NGĀTI KAHU KI WHĀINGAROA
- AND an application by ANI TANIWHA for NGĀTI KAWAU, NGĀTI KAWHITI, NGĀTI HAITI and NGAITŪPANGO HAPŪ OF WHANGAROA
- AND an application by ANARU PARATENE KIRA on behalf of the WHAKARARA MĀORI COMMITTEE
- AND an application by LOUISA TE MATEKINO COLLIER on behalf of NGĀTI KAWAU & TE WAIARIKI KORORA

Continued ...

Appearances: L Thompson for Nga Puhi-nui-tonu in CIV-2017-404-537
R McGrath in person for Ngāti Torehina Ki Mata-ure Ō Hau in CIV-2017-404-540
L Thornton for Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti and Ngaitūpango hapū of Whangaroa in CIV-2017-404-249
E Rongo for Te Hikutu Hapū in CIV-2017-404-570
M Piripi for Te Rūnanga o Whaingaroa Trust in CIV-2017-485-236
R N Zwaan for Whakarara Māori Committee in CIV-2017-485-298
N Thrupp for Ngāti Kawau and Te Waiariki Kororā in CIV-2017-485-398
T Sinclair for Ngāti Kahu & Te Rarawa, Te Uriohina in CIV-2017-404-559
S R Northey for Ngāti Mokokohi in CIV-2017-485-510
K N Delamere-Ririnui for Ngāti Manu in CIV-2017-485-277
IFF Peters and ALW Herewini for Ngāti Rēhia as an interested party
G Melvin for the Attorney-General

[1] Te Whānau o Rataroa (CIV-2017-404-529) and Ngāi Tūpango (CIV-2017-485-233) propose a hearing area for their applications and overlapping applications between Taupō Bay and Matauri Bay. Whangaroa Harbour is at the centre of the proposed hearing area.

[2] There are some 13 overlapping applications affected by the proposal.

[3] The above applicants have facilitated a number of hui being held in an attempt to reach consensus as to the proposed hearing area.

[4] As set out in the joint memorandum of counsel dated 28 November 2023 there is substantial support for the amended hearing proposal. The following groups support the proposal:

- (a) Te Whānau-o-Rātāroa – CIV-2017-404-529’
- (b) Ngāi Tūpango – CIV-2017-485-233;
- (c) Ngāti Kawau, Ngāti Awa – CIV-2017-404-539;
- (d) Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti and Ngaitūpango hapū of Whangaroa – CIV-2017-485-249;
- (e) Te Hikutu Hapū – CIV-2017-404-570;
- (f) Ngāti Kawau and Te Waiariki Kororā – CIV-2017-485-398; and
- (g) Ngāti Kahu & Te Rarawa, Te Uriohina – CIV-2017-404-559.

[5] The Crown engagement only applicant, Takutai Moana Whanau Trust (MAC-01-01-011), also supports the proposal.

[6] Mr Rota, on behalf of Ngāti Mokokohi and others (CIV-2017-485-510), opposes the matter being set down on the basis that he wants a larger single hearing.

[7] Mr Kira, on behalf of Whakarara Māori Committee (CIV-2017-485-298), proposes a single High Court hearing for the whole of Whangaroa Region. The principal impediment to varying the hearing to accommodate the concerns of these two applicants is that the ultimate hearing would be so large as to be unmanageable.

[8] In relation to the concerns expressed by some applicants as to the need to conclude a memorandum of understanding or engage in further discussions between the applicants, the fact that the hearing is not going to commence before 2026, reduces the impact of these concerns. That length of time should give the parties ample time to conclude discussions and for all applicants to complete their preparation for hearing.

[9] Paragraph 16 of the joint memorandum dated 28 November 2023 records that the hearing proposal area was varied so as to include in their entirety the claims of Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti and Ngāi Tūpango Hapū of Whangaroa application (CIV-2017-485-249) and the Ngāti Torehina ki Mata-ure Ō Hau application (CIV-2017-404-540). This involves moving the southern landward boundary of the hearing area to the top of Waiaua Bay. There was also agreement to move the southern seaward boundary to include in their entirety the claimed areas of Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti and Ngāi Tūpango Hapū of Whangaroa and Ngāti Torehina ki Mata-ure Ō Hau. A map with co-ordinates recording the precise boundaries of the proposed application area is appendix B to the joint memorandum.

[10] I have concluded that the area shown in appendix B should be the hearing area.

[11] In terms of the timing of the hearing the proposal was for a hearing not before the third quarter of 2025. Given that the estimated duration of the hearing is between 10 and 12 weeks, it would be appropriate for the hearing to commence in 2026 rather than risk dragging on over the Christmas vacation period when the Court does not sit.

[12] Accordingly, I request the Registrar to set these applications down for hearing. The hearing area covers the area set out in appendix B of the joint memorandum. The hearing will be for 12 weeks commencing not before 1 February 2026.

[13] Once the hearing date is fixed the following timetable directions apply:

- (a) The applicants are to file and serve their evidence 25 weeks prior to the hearing date.
- (b) Interested parties, other than the Attorney-General, are to file and serve their evidence no later than 16 weeks prior to the hearing date.
- (c) If necessary, the applicants are to file submissions as to the appointment of Pūkenga no later than 16 weeks prior to the hearing date.
- (d) The Attorney-General is to file and serve evidence no later than 12 weeks prior to the hearing date.
- (e) Any evidence in reply from the applicant is to be filed and served no later than nine weeks before the hearing date.
- (f) The close of pleadings date will be seven weeks prior to the hearing date.
- (g) The applicant's opening submissions, statement of agreed facts and bundles of authorities are to be filed and served no later than six weeks prior to the hearing date.
- (h) The interested parties' submissions and bundles of authorities are to be filed and served no later than four-and-a-half weeks prior to the hearing date.
- (i) The Attorney-General's submissions and bundles of authorities are to be filed and served no later than three weeks prior to the hearing date.

Solicitors / Counsel / Parties:

Mr D Naden, Ms S Roughton and Ms A Johns, Tamaki Legal, Auckland
Ms J Mason, Mr L Thompson and Mr N Thrupp, Phoenix Law Ltd, Wellington
Mr R McGrath (applicant in person)
Ms L Thornton, Ara Moana Law, Auckland
Ms E Rongo, Oranganui Legal, Paraparaumu
Mr T Sinclair, Ngātahi Law, Auckland
Ms M Piripi, Whaia Ltd, Wellington
Ms R N Zwann, Te Aro Law Ltd, Wellington
Ms S R Northey, Kahui Legal, Rotorua
Ms K N Delamere-Ririnui, Annette Sykes & Co. Ltd, Rotorua
Mr IFF Peters and Ms ALW Herewini, Kaupare Law Ltd, Auckland
Mr G Melvin, Crown Law Office, Wellington