

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

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

**CIV-2017-485-160; CIV-2017-485-214  
CIV-2017-485-229; CIV-2017-485-273  
CIV-2017-485-511; CIV-2017-485-261  
CIV-2017-485-248; CIV-2017-485-258  
CIV-2017-485-260; CIV-2017-485-211**

**GROUP N, STAGE 1(a) and STAGE 1(b)**

BETWEEN

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

AND

applications for orders recognising  
Customary Marine Title and Protected  
Customary rights

Continued...

Hearing: 23 April 2024

Counsel: O T H Neas for Ngāti Tamarangi Hapū  
N R Coates and P Walker for Ngāti Raukawa ki te Tonga  
B R Lyall for Te Whānau Tima (Seymour) and Te Ahi Kā o Te  
Mateawa  
T H Bennion and E A Whiley for Muaūpoko Tribal Authority  
Incorporated  
A M Cameron and A J Samuels for Te Ātiawa Ki Whakarongotai  
T N Hauraki for Tupoki Takarangi Trust (1999)  
E K Rongo for Ngāti Toa Rangatira  
D A Ward for Attorney General

Appearance excused for Rangitāne o Manawatū  
Appearance excused for Te Patutokotoko

Minute: 24 April 2024

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**MINUTE OF GRICE J**  
**(Withdrawal of funding adjournment and amended timetable)**

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[1] A number of parties filed applications to adjourn the hearings due to run for eight weeks commencing 6 May 2024 due to lack of funding by Te Arawhiti – the Office for Māori Crown Relations. Te Arawhiti had been funding a number of the applicants in relation to their applications.

[2] The applicants for adjournment included:

- (a) Ngāti Tamarangi on behalf of tāngatawhenua (CIV-2017-485-160);
- (b) Te Whānau Tima (Seymour) and Te Ahikā o Te Hapū Te Mateawa (CIV-2017-485-273);
- (c) Muaūpoko Tribal Authority Incorporated (CIV-2017-485-261);
- (d) Te Patutokotoko (CIV-2017-485-254);
- (e) Rangitāne o Manawatū (an interested party); and
- (f) Te Rūnanga o Toa Rangatira Inc an applicant on behalf of the iwi of Ngāti Toa Rangatira under the Crown engagement pathway (MAC-01-12-021), who is an interested party to the Group N proceedings.

[3] As a result of the application for adjournment (and difficulties caused by similar funding problems in at least one other hearing), Mr Ward for the Attorney-General (the Crown) brought the issue of funding to the attention of Te Arawhiti.

[4] Te Arawhiti set out its position in its memorandum dated 22 April 2024 conveyed to the Court and to parties. Te Arawhiti gave assurances that it has received a further amount for funding for this financial year which will meet the costs of the hearings scheduled for May-June 2024 in this Group N Stage 1(a) matter.

[5] Te Arawhiti made no further commitments. Therefore, the funding is not committed for applicants and interested parties for the October 2024 hearings (two weeks) and July 2025 hearing (two weeks) which are scheduled to complete the Stage 1(a) hearings. I note the obvious difficulty is that without some priority given

to funding the applicants (particularly the smaller ones) for the later period of the hearings, there is a risk this matter will be left part-heard.

[6] Insofar as the payment of invoices are concerned, the memorandum of the Attorney-General dated 22 April 2024 referred to an affidavit of Tui Marsh (an official from Te Arawhiti) dated 12 April 2024 filed in other proceedings:

9. Te Arawhiti acknowledges there have been significant delays in counsel and applicants receiving funding. In most instances, Te Arawhiti has been unable to meet its 20-working day timeframe for processing funding requests. Recent issues affecting the timeliness of processing and payment were set out in Ms Marsh's affidavit (including the unprecedented volume of funding requests that Te Arawhiti's funding team has received as a consequence of two lengthy Takutai Moana Act hearings – Whangārei Harbour and Wairarapa 1(b) - taking place at the same time.
10. Te Arawhiti is committed to improving processing times for funding requests in the remainder of the financial year.
11. In relation to outstanding invoices counsel are instructed:
  - 11.1 where invoices are currently unpaid, priority will be given to invoices for Wairarapa and Whangārei Harbour High Court hearings; and
  - 11.2 Te Arawhiti intends that invoices for Kāpiti-Manawatū received before the end of March 2024 that comply with the funding guidelines will be paid by 30 April.

[7] Mr Bennion pointed out that the commitment to pay invoices by 30 April 2024 did not cover costs which had not been invoiced since 30 March 2024. He submitted that parties (including his client) had incurred substantial cost since then which had not been factored in by Te Arawhiti.

[8] Mr Ward responded to the requests for a further funding commitment by referring to his memorandum. He also noted that the implications of the wider funding issues for the Marine and Coastal Area (Takutai Moana Act) 2011 (the Act) applications and negotiations will be considered at a conference (convened by Churchman J) to be held for all relevant participants.

[9] As a result of the memorandum of the Attorney General dated 22 April 2024, counsel for Ngāti Raukawa coordinated a joint memorandum dated 23 April 2024

indicating that most of the participants agreed that matter should proceed although sought further assurances from the Crown on funding. However, a delayed hearing start was sought as most parties were unable to adhere to the timetable due to the failure to receive payment of their invoices consequently resulting in failure to complete work. Mr Lyall highlighted that in the case of his client, he had not received payment of December invoices so consequentiality his witnesses were unable to undertake further work so he would be under some pressure meeting even a delayed timetable.

[10] The alternative timetables for Stage 1(a) were suggested in the joint memorandum of 23 April 2024 at Appendix A (a delayed start of one week) and Appendix B (a delayed start of two weeks). Counsel indicated they would be discussing ways of adducing the evidence to ensure it was all able to be presented within the shortened time frame.

[11] I expressed concern that it may be unfair to some parties to have their evidence taken as read particularly as the pūkenga would be sitting through the evidence. Counsel generally agreed that a process where the witness provided a statement or an overview of their evidence (rather than it be taken as read entirely) would be adopted and it had been effectively used in other hearings. Counsel also pointed out that questions would then follow, and it was more difficult to manage time required for questioning.

[12] Ngāti Raukawa supported the delay of only week largely for the reasons I have set out. Te Whānau Tima (Seymour) and Te Ahi Kā o Te Mateawa; Te Rūnanga o Toa Rangatira Inc (interested party) and Muaūpoko supported the Appendix B timetable (two-week delay). Te Ātiawa ki Whakarongotai, Rangitāne o Manawatū (interested party) and Te Patutokotoko (interested party) supported either adjustment.

[13] The Crown abides but Mr Ward pointed out that the funding year ended on 30 June 2024 and that the funding was in place for May-June but there may be difficulties in that regard if the hearings ran beyond that period. While there is little room for other reasons for the hearings to run beyond end of June, this adds a further pressure to deal with this matter in a timely manner. I am also concerned about the

hearing time being compressed too much if the hearing were delayed by two weeks or by 25% of the scheduled hearing time.

[14] I allow a slight adjustment to the timetable for filing of submissions, bundles and the notices of cross-examination to 8 May, and amend the filing date for the initial pūkenga report to the 17 May. Therefore, I consider a hearing start date commencing 13 May 2024 is appropriate and grant an adjournment until then. The hearing dates will be from the week starting 3 May 2024 until the week ending 27 June 2024. There are no sittings scheduled for 17 May and 7, 14, 21 and 28 June 2024. The amended timetable (mentioned above) is attached to this minute.

[15] I also set down a prehearing conference at 10 am on 6 May 2024.

[16] It may be necessary from time to time to sit longer. Counsel mentioned some delay in other hearings was caused by late notice applications and the court having to adjourn to chambers to deal with those. I reserve Mondays at 9.30 am as chambers time to consider any applications which may disrupt evidence or interrupt proceedings for the weeks following to avoid any last-minute applications. Counsel should file memoranda by at least 3 pm on the Friday preceding if there are any particular matters which require consideration. Any applications (with necessary supporting affidavits) should be on notice filed at least three days before the date for hearing (usually the chambers period is on the Monday) and any opposition at least one day before the hearing.

[17] Counsel also indicated they would cooperate in preparing an agreed schedule of cross-examination to avoid the need to have a multitude of notices filed. I direct the schedule should be filed by 8 May 2024.

[18] Counsel also mentioned that a transcript of the openings and closings should be provided. Counsel will supply electronic word documents and the Registrar will make those arrangements.

[19] Mr Ward for the Crown indicated that he received a bundle of information from the relevant local authorities and will make that available to the parties by the end of this week for consideration. Part of that material will be included in the Crown bundle.

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Grice J

*Solicitors*

Kāhui Legal, Wellington

Bennion Law, Wellington

Whāia Legal, Wellington

Oranganui Legal Limited, Paraparaumu

Crown Law, Wellington

### Amended timetable allowing one-week delay for Group N hearing

<b>Date Task / Action</b>	<b>Date</b>
All outstanding evidence to be filed	3 May 2024
Further case management conference	6 May 2024
All parties to file submissions and bundles of authorities; Attorney- General to file common bundle	8 May 2024
Parties to file joint memorandum providing hearing timetable	8 May 2024
All parties to file notices of cross-examination.	8 May 2024
Hearing for Group N, Stage 1(a) commences, beginning with all opening submissions	13 May – 27 June 2024 (Court will not sit on 17 May 2024 and 7, 14 and 21 June 2024.)
Pūkenga (Ms Milne and Dr Joseph) to file initial report	17 May 2024
Parties to file joint memorandum proposing specific questions for pūkenga	27 June 2024
Pūkenga to file main report	13 September 2024
Hearing for Group N, Stage 1(a) reconvenes	29 October – 8 November 2024
Stage 2(a) Hearing for wāhi tapu evidence and submissions commences	7 July – 25 July 2025