

**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-2017-485-254  
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)

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

IN THE MATTER OF applications for orders recognising  
Customary Marine Title and Protected  
Customary rights

Continued.....

Hearing: 9 am on 5 February 2024

Counsel: Listed below

Minute: 8 February 2024

---

**MINUTE THREE OF GRICE J  
(Case management)**

---

AND William James Taueki on behalf of Ngāti  
Tamarangi Hapū (CIV-2017-485-160)

AND Margaret Morgan-Allen for David  
Morgan Whānau (CIV-2017-485-214)

AND Rachael Ann Selby on behalf of Ngāti  
Raukawa ki te Tonga

(CIV-2017-485 229)

- AND Christopher Henare Tahana and Ors for Te Patutokotoko (CIV-2017-485-254)
- AND Patrick Seymour on behalf of Te Whānau Tima (Seymour) and Te Hapū o Te Mateawa (CIV-2017-485-273)
- AND Chris Shenton on behalf of Te Runanga Ngā Wairiki Ngāti Apa (CIV-2017-485-511)
- AND Muaūpoko represented by Muaūpoko Tribal Authority Incorporated (CIV-2017-485-261)
- AND Trustees of Te Ātiawa ki Whakarongotai Charitable Trust on behalf of Te Ātiawa ki Whakarongotai (CIV-2017-485-248)
- AND Tiratu Williams and Patricia Grace for the owners of Hongoeka Blocks (CIV-2017-485-258)
- AND Te Ātiawa ki Te Upoko o Te Ika a Maui Potiki Trust (CIV-2017-485-260)
- AND Tupoki Takarangi Trust (1999) on behalf of owners of Parangarahu 2B1 and 2C and their descendants (CIV-2017-485-211)

- Counsel:
- A K Irwin for Ngāti Tamarangi Hapū
  - No appearance for David Morgan Whānau
  - T K A Walker and N R Coates for Ngāti Raukawa ki te Tonga
  - L L Black for Te Patutokotoko
  - B R Lyall for Te Whānau Tima (Seymour) and Te Hapū o Te Mateawa
  - C Shenton for Te Runanga Ngā Wairiki Ngāti Apa (self-represented)
  - T H Bennion and E A Whiley for Muaūpoko Tribal Authority Incorporated
  - T N Ahu and A J Samuels for Te Ātiawa ki Whakarongotai
  - E K Rongo for owners of Hongoeka Blocks
  - M Houra for Te Ātiawa ki Te Upoko o Te Ika a Maui Potiki Trust
  - T N Hauraki for Tupoki Takarangi Trust (1999)
- Interested parties:
- E K Rongo for Ngāti Toa Rangatira (Crown engagement) MAC-01-12-021

D A Ward for Attorney General  
F R Wedde for Manawatū-Whanganui Regional Council,  
Greater Wellington Regional Council and Kāpiti Coast District  
Council

Indicated as  
interested party: C F Finlayson KC for Rangitāne Trust

## Introduction

[1] This minute largely deals with Group N, Stage 1(a) of the proceeding. The Court is asked to determine whether seven applicants are entitled to orders recognising customary marine title (CMT) and/or protected customary rights (PCRs) under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act), within the hearing area.

[2] The hearing area for Stage 1(a) was originally defined by his Honour Churchman J as the area bounded by the Rangitīkei River in the north, and Whareroa in the south.<sup>1</sup> The Court subsequently confirmed the southern boundary was the southern extent of the application area of the Trustees of Te Ātiawa ki Whakarongotai Charitable Trust on behalf of Te Ātiawa ki Whakarongotai (CIV-2017-485-248).<sup>2</sup> The applicant group has now confirmed that boundary point by coordinates (-40.960, 174.967).<sup>3</sup> Outstanding issues in relation to the amended hearing area and application area boundaries are set out below.

[3] The Stage 1(a) hearing area is set down to be heard from 6 May 2024 to 27 June 2024. The Stage 1(b) hearing is presently scheduled for October/November 2024.

[4] The seven applicants who have filed evidence in this proceeding are:

- (a) William James Taueki on behalf of Ngāti Tamarangi hapū (CIV-2017-485-160);

---

<sup>1</sup> Minute of Churchman J, dated 14 September 2022, at [14].

<sup>2</sup> Minute No 2 of Grice J, dated 17 November 2023, at [1(a)].

<sup>3</sup> Memorandum of Counsel on behalf of Ātiawa ki Whakarongotai Regarding Application Area and Stage 1(a) Hearing Boundaries, dated 10 November 2023, Appendix A.

- (b) Margaret Morgan-Allen for David Morgan Whānau (CIV-2017-485-214);
- (c) Rachael Ann Selby on behalf of Ngāti Raukawa ki te Tonga (Ngāti Raukawa) (CIV-2017-485-229);
- (d) Trustees of Te Ātiawa ki Whakarongotai Charitable Trust on behalf of Te Ātiawa ki Whakarongotai (CIV-2017-485-248);
- (e) Muaūpoko represented by Muaūpoko Tribal Authority Incorporated (CIV-2017-485-261);
- (f) Patrick Seymour on behalf of Te Whānau Tima (Seymour) and Te Hapu o Te Mateawa (CIV-2017-485-273); and
- (g) Chris Shenton on behalf of Te Runanga Ngā Wairiki Ngāti Apa (CIV-2017-485-511).

### **Other applications**

[5] The Crown indicated that some applicants had not filed evidence and would participate as interested parties.

[6] It listed the interested parties to this proceedings as follows:

- (a) The Attorney-General;
- (b) Te Rūnanga o Toa Rangatira (Ngāti Toa Rangatira),<sup>4</sup> an applicant group which has a Crown engagement application covering all of the Rangitikei ki Whareroa hearing area. Ngāti Toa Rangatira is a Crown engagement-only applicant;
- (c) Te Patutokotoko represented by Christopher Henare Tahana, Edward (Fred) Clark, Hayden Tūroa, and Novena McGuckin

---

<sup>4</sup> Minute of Churchman J, dated 14 September 2022, at [10].

(CIV-2017-485-254), an applicant group which has since decided to pursue its interests through Crown engagement, and which participates in this proceeding as an interested party only;<sup>5</sup>

- (d) Te Kaahui a Rauru Trust on behalf of Ngaa Rauru Kiitahi (CIV-2017-485-183) which is, as far as the Attorney-General understands, participating in this proceeding as an interested party;
- (e) Edward Penetito of Ngāti Kauwhata;
- (f) Simon Austin;
- (g) A number of territorial authorities, all of which have filed notices of intention to appear as interested parties, but which are yet to confirm their level of participation in this proceeding, including (most relevantly for the Rangitikei ki Whareroa area):<sup>6</sup>
  - (i) Greater Wellington Regional Council;
  - (ii) Horizons Regional Council; and
  - (iii) Kāpiti Coast District Council;
- (h) CentrePort Limited;
- (i) Council of Outdoor Recreation Associations of New Zealand Incorporated;
- (j) Landowners Coalition Incorporated;

---

<sup>5</sup> Memorandum of Counsel Regarding Participation in Group N Stage 1(a) Proceedings, dated 19 December 2023, at [3].

<sup>6</sup> Other parties that have filed notices of intention to appear as interested parties in the Group N proceeding, but whose interests are limited to Stage 1(b), include: Hutt City Council; Porirua City Council; South Wairarapa District Council; Wellington City Council; and Wellington International Airport Limited.

- (k) Waitarere Beach Progressive and Ratepayers Association Incorporated;  
and
- (l) Seafood Industry Representatives.

[7] The Attorney General noted there are a significant number of Crown engagement applications (including by current High Court applicants and by Crown engagement-only applicants) overlapping with the hearing area. It provided a list of Crown engagement applicants in the area which is attached as Appendix A.

[8] Counsel made submissions, discussed, agreed on procedural and timetable matters, and hearings were set down, as discussed under the below headings.

### **Interested party applications**

#### *Territorial authorities*

[9] Ms Wedde appeared for the Kāpiti Coast District Council as an interested party for applications filed by:

- (a) William James Taueki on behalf of Ngāti Tamarangi Hapū (CIV 2017-485-160);
- (b) Rachael Ann Selby on behalf of Ngāti Raukawa ki te Tonga (CIV 2017-485-229);
- (c) Trustees of Te Ātiawa ki Whakarongotai Charitable Trust on behalf of Te Ātiawa ki Whakarongotai (CIV-2017-485-248); and
- (d) Muaūpoko represented by Muaūpoko Tribal Authority Incorporated (CIV-2017-485-261).

[10] Ms Wedde also appeared for Manawatū-Whanganui Regional Council and Greater Wellington Regional Council. She indicated that those parties would abide the Court's decision on most issues. Their appearance was largely due to their regulatory roles, activities and assets involved in areas of particularly wāhi tapu.

Greater Wellington Regional Council is reviewing its participation in this matter. It is directed to file a memorandum concerning its position on or before **12 February 2024**.

*Rāngatane interests — application to join as an interested party*

[11] Mr Finlayson KC said he was only recently advised about today's teleconference, but he appeared today on behalf of Rangitāne interests. He sought that Rangitāne interests be joined as an interested party but indicated their involvement would be limited. He would make an application and file a supporting affidavit by **12 February 2024**. I direct that other parties have until **23 February 2024** to respond. Mr Finlayson accepted there is no scope to vary the hearing timetable at this and he would adhere to the timetable.

*Transpower's application to join as an interested party*

[12] Transpower's application to join as an interested party was not opposed by any party. Transpower is responsible for assets that may be affected by the Stage 1(b) application. In view of the need to hear from Transpower on infrastructure of national importance (particularly the Cook Strait high-voltage cable) and the lack of opposition, I grant the application for joinder.

**Amended boundary applications**

[13] Mr Bennion has filed an application on behalf of Muaūpoko Tribal Authority Incorporated for its PCR application to be treated as a CMT application. Mr Bennion submits there is no strict legal requirement for prior notice and the amendment is made out of caution to put all parties on notice. It seeks a consideration of its application to effectively extend the area of its CMT application under s 107(1) of the Act.

[14] A number of parties oppose that application.

[15] I direct the following timetable on that application:

- (a) The applicant's submissions (by way of memorandum) are to be filed and served on or before **9 February 2024**;

- (b) Response submissions (by way of memorandum) are to be filed and served on or before **16 February 2024**.
- (c) A hearing is set for at **2.15 pm on 23 February 2024**.

[16] Ms Rongo indicated that her clients may seek to file supplementary evidence as a result of the determination of that application. Any timetable variations required will be dealt with after the determination.

[17] Discussions at the teleconference indicated that any extension of time for the filing of evidence by a party would immediately lead to other parties wanting further time to respond. The present timetable for the filing of evidence remains in place, except as expressly varied in this minute.

*Amended applications*

[18] Mr Bennion (Muaūpoko Tribal Authority Incorporated) and Mr Shelton (Te Runanga Ngā Wairiki Ngāti Apa) indicated they did not pursue rights in this claim beyond the otherwise agreed boundary to the north being the Rangitīkei River. The claims for north of that point are yet to be set down and will be dealt with in those hearings.

[19] The Crown sought that any further applications for amendments to the boundary be filed and served by 12 February 2024. After hearing from the other parties it accepted the amended boundary applications be filed by the close of pleadings date (**12 March 2024**). This particularly relates to Ngāti Raukawa (CIV-2017-485-229) represented by Ms Walker and Te Ātiawa ki Whakarongotai (CIV-2017-485-248) represented by Mr Ahu.

[20] The Crown set out its detailed concerns about the uncertainties of the boundary in its memorandum of 30 January 2024 at [13] to [18]. The points raised there should be addressed in any amended applications which I direct be filed on or before close of pleadings on **12 March 2024**.



[21] I direct that a further joint map is to be filed on or before **28 March 2024** (which coincides with the filing of the Attorney General's evidence in reply to Mr McBurney's evidence).<sup>7</sup>

### **Appointment of pūkenga**

[22] The parties have made nominations and commented on pūkenga appointment some time ago. There has been some agreement on the nominees, and three of those nominees remain available at present and no substantial opposition has been raised to them. The nominees are Moe Milne, Paul Meredith and Dr Anaha Hiini. The parties agree on Ms Milne and Dr Hiini.

[23] Mr Lyall (Te Whānau Tima (Seymour) and Te Hapū o Te Mateawa) sought and was granted leave to propose a further pūkenga nomination **by close of today**. Other parties have until close of **9 February 2024** to respond on that proposal.

[24] Mr Ahu (Te Ātiawa ki Whakarongotai) spoke on behalf of the applicants who filed the joint memorandum dated 7 July 2023. He indicated a preference for two pūkenga due to the workload, the pressure to provide a comprehensive report, being required to sit through all the hearings and to follow tikanga processes where possible. He noted that the Court of Appeal in *Whakatōhea Kotahitanga Waka (Edwards) & Ors v Te Kāhui and Whakatōhea Māori Trust Board & Ors*<sup>8</sup> had expressed some concern about the ability of the pūkenga to provide a comprehensive report within the timeframe imposed there.

[25] The Attorney General sought a direction that an initial report by pūkenga be filed before the start of the hearing on 17 April 2024 (after the applicants' evidence in reply is filed).

[26] Other parties generally do not oppose the filing of an initial pūkenga report although Mr Bennion (Muaūpoko Tribal Authority Incorporated) suggested that it not

---

<sup>7</sup> There was no discussion about the filing of a further map at the teleconference. However, the reason for the direction is that the further map should be filed in a timely manner. If any party has any difficulty with that direction, they should file a joint memorandum.

<sup>8</sup> *Whakatōhea Kotahitanga Waka (Edwards) & Ors v Te Kāhui And Whakatōhea Māori Trust Board & Ors*<sup>8</sup> [2023] NZCA 504.

be filed until the pūkenga have heard the opening submissions (in the week of 6 May 2024). That would require the filing of the initial report on about 13 May 2004.

[27] Other parties noted an initial report may provide some assistance, but was important that the pūkenga did not make any substantive indications. Mr Ahu submitted that the “sands were likely to shift” in the course of hearing and it was important that pūkenga gave no indications which might effect the parties before the hearing the full evidence.

[28] Parties generally agreed that the initial report would cover matters including:

- (a) the qualifications of the pūkenga;
- (b) the proposed approach and methodologies; and
- (c) proposals on the incorporation of tikanga, for instance, kanohi ki te kanohi, as Ms Rongo (for owners of Hongoeka Blocks and Ngāti Toa Rangatira) mentioned.

[29] I direct parties to file a joint memorandum on the questions for the pūkenga, the ambit of the initial report (based on the issues noted above) and the timing for the filing of that initial report, on or before **23 February 2024**.

[30] Following that, the Court will appoint pūkenga(s) on the papers.

### **Hearing timetable – wāhi tapu**

[31] Counsel agree that a proposed hearing timetable should be filed to assist the Court (this is presently required to be filed on or before 24 April 2024). Counsel generally agreed that the first week (commencing 6 May 2024) would be used for opening submissions. Mr Bennion suggested opening submissions might not take the whole week which leaving time for the pūkenga(s) to prepare their initial report following opening submissions.

[32] The Crown seeks a direction that it presents its opening submissions after the applicants as has been practice in most other applications.

[33] I make the following directions:

- (a) a joint memorandum on the hearing timetable is to be filed on or before **24 April 2024**,
- (b) notices of cross-examination are to be filed on or before **24 April 2024**.
- (c) opening submissions be made in the week commencing **6 May 2024**.

[34] Parties sought directions that evidence in relation to wāhi tapu be presented in a part 2 hearing. The Crown does not oppose this, but seeks confirmation that the evidence as to wāhi tapu in support of the general applications be provided in Stage 1(a) of the hearing as that will be essential to the parties claims. Additionally, the evidence in Stage 1(a) concerning wāhi tapu should not be inconsistent with that provided in part 2 of the hearing for the general determinations.

[35] The other parties clarified that they are aware of the significance of wāhi tapu in relation to the criteria for CMT and PCRs. The parties agreed that the wāhi tapu evidence was relevant to the general applications (and related issues) so would need to be covered at Stage 1(a). However, the evidence in relation to the detailed and sensitive issues that arise on wāhi tapu may be given in Part 2, once the substantive decision is delivered in terms of following directions:

- (a) evidence concerning wāhi tapu as is relevant and will be heard at Stage 1(a) in relation CMT criterion under s 58 of the Act (subject to any confidentiality or related orders of the Court); and
- (b) further evidence and argument on whether the particular statutory criteria for the wāhi tapu protection rights are met will be heard at the Part 2 hearing (following the Stage 1(a) decision)

### **Application of adjournment of Stage 1(b) hearing**

[36] Ms Rongo's applicant's sought to adjourn the Stage 1(b) hearing scheduled for October and November 2024. All parties agreed, in view of the direct Crown engagement being undertaken in the Stage 1(b) area to that adjournment.

[37] However, before that Stage 1(b) hearing (beginning 7 October 2024, ending 29 November 2024 and next timetabling commencing on 18 March 2024) is adjourned, I need to consider whether part of that hearing time (Mr Lyall suggested the last two weeks) is retained for Part 2 issues such as the formulation of the detail of any orders as a result of the substantive judgment and the specific wāhi tapu hearings.

[38] Ms Rongo (with some support by Ms Black) also suggested deferring the Stage 1(a) hearing scheduled to start in May 2024 to the time presently scheduled for Stage 1(b).

[39] The options are:

- (a) Adjourn the Stage 1(b) hearing to a date to be set in the third quarter of 2025 and release the dates from 7 October to 15 November 2024 but retain two weeks at the end of November 2024 for the wāhi tapu hearings, or
- (b) Bifurcate the Stage 1(a) hearing to enable the pūkenga report for Stage 1(b) to be delivered and dealt with in October 2024, or
- (c) Adjourn all of the Stage 1(b) hearing to a set hearing day (which would be third quarter in 2025 at the earliest) now.
- (d) Adjourn Stage 1(a) to be heard in the time set for Stage 1(b) commencing on 7 October 2024.

[40] I direct that that Counsel file their memorandum in relation the proposals as to the Stage 1(b) hearing dates in October – November 2024 **on or before 23 February 2024.**

## **Hearing arrangements**

### *Venue*

[41] All parties were of the view that the hearings should be held in locations closer to the relevant areas. Parties noted difficulties surrounded using marae or maraes for the hearings. However, various venues were canvassed including Southward Car Museum, El Rancho, and Levin Council premises which were not objected to. Te Wananga o Raukawa in Otaki was also suggested but not favoured by some parties due to its location.

[42] Counsel will inquire and confer as to venue and consult with Registry on any proposals. I direct that submissions on venue are filed on or before **14 February 2024**. I will make a determination regarding the venue on the papers unless I require more information, or any issues arise.

### *Site visits*

[43] Parties agreed that site visits are likely to be required, particularly for Kāpiti Island. However, it is premature to timetable any site visits before the evidence is heard. Therefore, site visits will be reconsidered during the hearing when the Court is better able to assess which site visits would materially assist in determining specific facts in dispute.

### *Translation services*

[44] Parties expressed concern at the difficulties posed by the non-simultaneous translation that was provided in other High Court hearings to date. Counsel pointed to the successful use of the simultaneous translation services by the Waitangi Tribunal.

[45] Mr Lange, the Registrar indicated that for the Whangārei based hearings in 2024 simultaneous translation would be used and it should be possible to also be provided for this May/June hearing.

[46] Mr Lange indicated he needed timely advice on who would require the translation services and the period they were required.

[47] Counsel indicated they required translation services for the first week of the hearing (commencing 6 May 2024).

[48] Counsel will confer and I direct they file a joint memorandum concerning translation services (including a timetable when such services are required) on or before **29 February 2024**.

[49] A further conference will be convened to review progress and any outstanding matters at the end of March 2024 or earlier if necessary.



---

Grice J

*Solicitors:*

Kāhui Legal, Rotorua and Wellington  
Black Law, Wellington  
Bennion Law, Wellington  
Whaia Legal, Wellington  
Oranganui Legal Limited, Paraparaumu  
Crown Law, Wellington  
Bundle Findlay, Wellington

## **Appendix A**

### **Crown Engagement Applicants (Rangitikei ki Whareroa)**

MAC-01-10-004: Ngā Wairiki Ngāti Apa, also a High Court applicant (CIV-2017-485-511).

MAC-01-10-018: Te Patutokotoko, also a High Court applicant (CIV-2017-485-254), but not listed above as it has decided to pursue recognition orders by Crown engagement.

MAC-01-11-001: Owners of Waiorua Bay Kāpiti 6 and some of the owners of Motungarara, a Crown engagement-only applicant.

MAC-01-11-002: Ngāti Tamarangi hapū of Muaūpoko, also a High Court applicant (CIV-2017-485-160).

MAC-01-11-003: Muaūpoko, also a High Court applicant (CIV-2017-485-261).

MAC-01-11-004: Ngā Hapū o Himatangi, a Crown engagement-only applicant.

MAC-01-11-005: Ngāti Hikitanga Te Paea, Morgan Whānau, also a High Court applicant (CIV-2017-485-214)

MAC-01-11-006: Ngāti Huia, a Crown engagement-only applicant;

MAC-01-11-007: Ngāti Huia ki Kikopiri, a Crown engagement-only applicant;

MAC-01-11-008: Ngāti Kauwhata, a Crown engagement-only applicant;

MAC-01-11-009: Ngā Hapū o Kereru Ngāti Takihiku, Ngāti Hinemata, Ngāti Ngārongo, a Crown engagement-only applicant;

MAC-01-11-011: Pomare and Rangihaeta Whānau, a Crown engagement-only applicant;

MAC-01-11-012: Rangitaane North Island, a Crown engagement-only applicant;

MAC-01-11-013: Rangitāne o Manawatū, a Crown engagement-only applicant;

MAC-01-11-015: Te Ātiawa ki Whakarongotai, also a High Court applicant (CIV-2017-485-248);

MAC -01-11-016: Te Iwi o Ngāti Tukorehe me onā hapū, whānau hoki, a Crown engagement-only applicant;

MAC-01-11-017: Te Kotahitanga o Te Iwi o Ngāti Wehi Wehi, a Crown engagement-only applicant;

MAC-01-11-018: Whānau Tima/Seymour Hapū Te Mateawa, Ngāti Tukorehe, Ngāti Te Rangi Iwi Ngāti Raukawa, also a High Court applicant (CIV-2017-485-273);

MAC-01-11-019: Raukawa ki te Tonga, also a High Court applicant (CIV-2017-485-229); and

MAC-01-12-021: Ngāti Toa Rangatira, a Crown engagement-only applicant.