

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

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

**CIV-2017-404-481
CIV-2017-485-193
CIV-2017-485-220
CIV-2017-485-221
CIV-2017-485-224
CIV-2017-485-226
CIV-2017-485-232
Group M, Stage 1(b)**

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

Minute: 14 February 2024

**MINUTE OF GWYN J
(Timetabling and procedural matters)**

Ngāi Tūmapūhia-ā-Rangi ki Mōtūwairaka Incorporated and Ngāi Tūmapūhia-ā-Rangi ki Ōkautete Incorporated

[1] Counsel has filed a memorandum (dated 2 February 2024) on behalf of Sue Taylor for Ngāi Tūmapūhia-ā-Rangi ki Mōtūwairaka Incorporated and Sam Morris, Lynall Morris, and Jason Morris for Ngāi Tūmapūhia-ā-Rangi ki Ōkautete Incorporated (interested parties).

[2] I grant leave for the interested parties' opening submissions to be taken as read and for the interested parties to file closing submissions if necessary.

[3] I also grant leave for the filing of the affidavit of Dr Takirirangi Clarence Smith dated 23 May 2023 and the attached exhibit T Smith *Land, Water and Resource Use in Wairarapa*, which was filed to the record in the Stage 1(a) proceeding and was subject to cross-examination.

Ngāi Tūmapūhia-ā-Rangi hapū (Ngāi Tūmapūhia)

[4] As counsel's memorandum of 2 February 2024 notes, originally the entirety of Ngāi Tūmapūhia's application area was included in the Group M Stage 1(a) hearing, but subsequently the Whareama River was shifted to the Stage 1(b) hearing. Counsel advise that the Ngāi Tūmapūhia evidence from the Stage 1(a) hearing relevant to the Stage 1(b) hearing has been filed in accordance with the Court's direction and now seeks leave to file further evidence regarding whitebait fishing at Whareama River, in support of an order for a protected customary right.

[5] It appears that no parties oppose the filing of that evidence, from Matthew Paku. Accordingly, I grant leave for Mr Paku's affidavit to be filed.

Trustees of the Pāpāuma Marae

[6] By memorandum of 5 February 2024, counsel for the trustees of the Pāpāuma Marae, on behalf of the original owners of Matakana 1, 2 and 3 blocks and their descendants, have sought leave to file an affidavit from Robin Te Huna Pōtangaroa, outside of the timeframe for filing Stage 1(b) evidence. Mr Pōtangaroa's affidavit, as originally filed, was unsigned and without annexures but a signed version with annexures has now been filed.

[7] Counsel for George Matthews, on behalf of Te Hika o Pāpāuma Mandated Iwi Authority (Pāpāuma) oppose the receipt of Mr Pōtangaroa's affidavit, on the grounds of its lateness and, counsel submits, because it contains a breach of litigation privilege and also contains otherwise privileged communications.

[8] Mr Hirschfeld has sought a teleconference to address the matter. Unfortunately it will not be possible to convene a teleconference before the hearing starts. Given the nature of Pāpāuma's objections to the affidavit, I do not at this point grant

leave for its filing. The objection to the receipt of Mr Pōtangaroa's affidavit will therefore be dealt with in the early stages of the hearing.

Evidence by VMR

[9] As requested in the joint memorandum of counsel dated 5 February 2024, I grant leave for the evidence of Stuart Halliday and Dr Robert Bell to be presented by VMR.

Gwyn J