

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

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

**CIV-2017-485-196
CIV-2017-485-317
CIV-2017-485-227
CIV-2017-485-291
CIV-2017-485-568
CIV-2017-485-770
CIV-2017-485-250
CIV-2017-485-318
CIV-2017-485-513**

IN THE MATTER OF applications for recognition orders under the
Marine and Coastal Area (Takutai Moana)
Act 2011

BETWEEN TE RŪNANGA O NGĀTI AWA for and on
behalf of NGĀTI AWA
Applicant

THE TRUSTEES OF THE RURIMA
ISLAND MĀORI RESERVATION
Applicant

ENID RATAHI-PRYOR, STANLEY
RATAHI and POUROTO NGAROPO for
and on behalf of NGĀTI HIKAKINO, NGĀI
TE RANGIHOUHIRI II AND TE TĀWERA
Applicant

ATI HIKAKINO, NGAI TE
RANGIHOUHIRI II and TE TĀWERA
Applicant

NGĀTI MAKINO HERITAGE TRUST and
NGĀTI PIKIAO IWI TRUCT on behalf of
NGĀTI MAKINO and NGĀTI PIKIAO
Applicant

HOKIMATEMAI KAHUKIWA on behalf of
KOROMATUA HAPŪ of NGĀTI
WHAKAUE of TE ARAWA WAKA
Applicant

TE RŪNANGA O TE WHĀNAU on behalf
of NGA HAPU O TE WHĀNAU A APANUI
Applicant

LAURIE PORIMA on behalf of the MANU
PAORA HAPŪ
Applicant

TE TAWHARAU O NGĀTI PŪKENGĀ on
behalf of NGĀTI PŪKENGĀ
Applicant

TE RŪNANGA O NGĀTI WHAKAUE KI
MAKETU on behalf of NGĀTI WHAKAUE
KI MAKETŪ HAPŪ
Applicant

AND

THE ATTORNEY-GENERAL
Interested Party

Hearing: 14 February 2024

Counsel: J P Kahukiwa for Ngāti Whakaue
T J Castle for Ngāi Taiwhakaea Hapū
H K Irwin-Easthope and R L Douglas for Ngāti Awa
J P Koning for Ngāti Whakahemo
T H Bennion for Te Tawharau o Ngāti Pūkenga
N R Milner for Trustees of Rurima Island Māori Reservation
L Thompson for Manu Paora Whānu, Te Runanga O Ngati
Whakaue ki Maketu Inc and Tangihia Hapu
G L Melvin for Attorney-General for Interested Party

Minute: 15 February 2024

MINUTE OF CHURCHMAN J

[1] A 10-week hearing for claims under the Marine and Coastal Area (Takutai Moana) Act 2011 has been scheduled to commence on 5 May 2025 at the Baypark Arena in Mt Maunganui. The area to which the claims relate is the western Bay of Plenty between the area covered by the *Re Reeder (stage 2)* hearing in the west and *Re Edwards (Whakatōhea)* hearing in the east.

[2] The nearest High Court to the claims area is located at Tauranga. However, given the size of the hearing (number of counsel and parties) involved, the Tauranga High Court is not large enough to practically accommodate the hearing. For that reason the venue of the Baypark Arena in Mt Maunganui was chosen.

[3] A number of applicant groups would prefer to have that part of the hearing that relates to their evidence and/or submissions heard at their marae. Eight counsel signed a joint memorandum dated 22 December 2023 requesting a change of hearing venue. Essentially that memorandum proposed;

- (a) That the first four weeks of the hearing be held at Mānuka Tūtahi Marae in Whakatāne. These weeks would cover all applicant parties. Opening submissions as well as the evidence of six Ngāti Awa affiliated applicant groups.
- (b) The final week to hear closing submissions was proposed to be held at a non-marae venue (such as Baypark Arena).
- (c) The intervening weeks were proposed to be for the hearing of applicant groups such as Te Arawa, Ngāti Whakahemo, Ngāti Pūkenga and the Attorney-General as an interested party. The memorandum recorded that counsel understood that the Te Arawa affiliated applicant groups were considering whether to seek a portion of this hearing to be held at a Te Arawa Marae.

[4] Of the remaining groups, the preference of Ngāti Whakahemo is for the whole hearing to remain at Baypark Arena; Tangihia Hapū opposed the application for the Ngāti Awa parties case being heard at Te Mānuka Tūtahi Marae and Ngāi Taiwhakaea do not oppose the course outlined in the joint memorandum but want their opening submissions and evidence heard at the Taiwhakaea Marae in Whakatāne.

Issues arising

[5] As I explained to the counsel, there are both cultural and logistical consequences arising from the course that is proposed. It is estimated that the set-up

costs for each off-site venue are approximately \$30,000; if simultaneous translation services are to be provided at each off-site venue the cost estimate is also approximately \$30,000 per site. A deposit of \$29,000 has been paid for the Baypark Arena and if the 10-week booking does not proceed this would be lost.

[6] Based on the information provided in the joint memorandum it seems that Te Mānuka Tūtahi Marae would be physically capable of hosting some or all of the hearing. It would obviously be subject to inspection by the Ministry of Justice. However, holding the hearing there would involve the Ministry incurring forfeiture of the deposit already paid for Baypark Arena.

[7] If the parties were able to all agree on an alternative venue for the whole of the hearing, such a suggestion would be carefully considered by the court. However, the logistical costs for splitting the hearing up among multiple sites mean that this course is not feasible. The court must also be mindful of the wishes of those applicant groups would prefer the hearing to continue as scheduled at Baypark Arena rather than being held on one or more marae.

[8] Accordingly, I have adjourned this matter to allow all counsel two weeks with in which to discuss the matter between themselves and obtain instructions from their clients. Counsel wishing to file further memoranda are to do so no later than 1 March 2024. I will then make a decision on the papers as to the appropriate course to follow.

Churchman J