

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

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2017-404-000305**

UNDER	the Marine and Coastal Area (Takutai Moana) Act 2011
IN THE MATTER	of an application for an order recognising Customary Marine Title and Protected Customary Rights
BY	Tamihana Paki on behalf of Te Parawhau (CIV-2017-485-000305)
BY	Korokota Marae on behalf of Te Parawhau Hapū (CIV-2017-485-799)
BY	Patuharakeke Te Iwi Trust Board (CIV-2017-485-281)
BY	Stephen Panoho on behalf of Te Rae Ahu Whenua Trust (CIV-2017-485-239)
BY	Alan Riwaka, Chief Executive of Te Rūnanga o Ngāti Whātua (CIV-2017-404-563)
BY	Pereri Mahanga on behalf of Te Waiariki, Ngāti Korora, Ngāti Takapari (CIV-2017-404-566)
BY	Ngatiwai Trust Board on behalf Ngatiwai (CIV-2017-485-283).
BY	Kare Rata on behalf of Ngā Hapū o Ngāti Wai (CIV-2017-404-554)
BY	Louise Collier on behalf of Ngāti Kawau and Te Waiariki Korora (CIV-2017-485-398)
BY	Te Tawharau o Ngāti Pūkenga o behalf of Ngāti Pukenga (CIV-2017-485-250)

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BY	Te Rūnanga o Ngāti Hine on behalf of Ngāti Hine (CIV-2017-485-231)
BY	Elvis Reti on behalf of the Reti Whānau (CIV-2017-485-515)
BY	Maia Honetana on behalf of Ngāi Tahu, Ngāti Tu ki Ngāpuhi (CIV-2017-404-573)
BY	Waimarie Kingi on behalf of Ngā Hapū o Tangaroa aki Te Ihu o Manaia tae atu ki Mangawhai (CIV-2017-404-579)
BY	Joseph Kingi on behalf of Ngāpuhi Nui Tonu, Ngāti Rahiri, Ngā Tahu and Ngaitawake (CIV-2017-404-537)
INTERESTED PARTY	J Golightly for North Port Ltd
INTERESTED PARTY	J Golightly for Marsden Cove Canals Management Ltd
INTERESTED PARTY	C Simmons, E Ellis for Channel Infrastructure NZ Ltd
INTERESTED PARTY	R Roff, Y Moinfar-Yong for Attorney-General
INTERESTED PARTY	J Mason J Kingi on behalf of Ngāpuhi hapū and Ngāpuhi-nui-tonu (MAC-01-01-50)

Hearing: 4 March 2024

Counsel: C Hockly for Te Parawhau (CIV-2017-485-000305)  
R and M Enright for Korokota Marae on behalf Te Parawhau Hapū (CIV-2017-485-799)  
K Dixon, L Tothill and T Talamaivao for Patuharakeke Te Iwi Trust Board (CIV-2017-485-281)  
B Lyall and H Swedlund for Te Rae Ahu Whenua Trust (CIV-2017-485-239)  
M Chen and C Saunders for Te Rūnanga o Ngāti Whātua (CIV-2017-404-563)  
J P Kahukiwa for Te Waiariki, Ngāti Korora, Ngai Takapari (CIV-2017-404-566)

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J Inns and K van Wijngaarden for Ngāti Wai (CIV-2017-485-283;  
CIV-2017-404-554)

J Mason, U Kuddus and P Corbett for Ngāti Kawau (CIV-2017-  
485-398); Ngā-Puhi-nui-tonu (CIV-2017-404-537); Reti Whānau  
(CIV-2017-485-515)p

T Bennion and O Ford Brierley for Ngāti Pūkenga  
(CIV-2017-485-250)

C Terei-Tipene for Ngāti Hine (CIV-2017-485-231)

M Cherrington and S Downs for Ngā Hapū o Tangaroa aki Te Ihu  
o Manaia tae atu ki Mangawhai (CIV-2017-404-579)

J Golightly for North Port Limited

J Golightly for Marsden Cove Management Ltd

C Simmons, E Ellis for Channel Infrastructure NZ Ltd

R Roff, Y Moinfar-Yong for Attorney-General

Date: 7 March 2024

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**MINUTE OF HARVEY J**

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[1] Last week counsel expressed concerns over what they claimed was the continuing lack of payment for their costs in this proceeding. They have since filed memoranda setting out those concerns. In summary, counsel submit that there are significant delays in the payment of their invoices. This has led to witnesses being prevented from attending court to give evidence in person because they have not received funding for their travel expenses. Te Arawhiti is responsible for managing MACA funding for counsel, historians, and claimant administration expenses.

[2] MACA cases are complex and require significant resources. This includes commissions to historians who file detailed reports with supporting document banks of hundreds if not thousands of pages. Counsel are required to prepare detailed pleadings, memoranda and submissions. They must prepare their witness evidence. They then engage in cross-examination of witnesses from other claimant groups.

[3] It is unreasonable to expect counsel and their clients to shoulder the burden of these proceedings in circumstances where their actual and reasonable costs must conform to a budget template issued by Te Arawhiti and then remain unpaid for months. That these delays have affected witness attendance for the current proceedings, which are now in their fourth week is also inexplicable.

[4] I direct Ms Roff as counsel for the Attorney-General to provide an explanation as to these delays, along with confirmation from Te Arawhiti as to when counsel and their clients will be paid. It will not assist these proceedings for Te Arawhiti's response to be to the effect that progress is in train. I require confirmation as to when counsel will be paid their outstanding costs. Any withdrawal by counsel of their services midway through the case would be a disaster. To avoid doubt, I require the relevant executive from Te Arawhiti to file an affidavit responding to this minute urgently.



Harvey J