

**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
CIV-2017-485-254**

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: 6 March 2024

Counsel: (Listed below)

Minute: 8 March 2024

**MINUTE (NO 4) OF GRICE J
(Timetabling instructions)**

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 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 Rūnanga 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)

AND Christopher Henare Tahana, Edward (Fred) Clark, Hayden Tūroa, and Novena McGuckin on behalf of Te Patutokotoko (CIV-2017-485-258)

Counsel: A Irwin for Ngāti Tamarangi Hapū
N Coates for Tupoki Takarangi Trust
P Walker for Ngāti Raukawa ki te Tonga
T Ahu and A Samuels for Te Ātiawa Ki Whakarongotai
L Black for Te Patutokotoko
E Rongo for Tiratu Williams and Patricia Grace for the owners of Hongoeka Blocks
M Houra for Te Ātiawa Iwi ki te upoko o te Ika a Maui Potiki

T Bennion for Muaūpoko Tribal Authority Inc
B Lyall and H Swedlund for Te Whanau Tima and Te Hapu O
Te Mateawa
E Rongo for Ngāti Toa Rangatira
C Finlayson for Ngāti Raingitane ki Manawatu
D Ward for the Attorney-General
B Scott for the Seafood Industry
C Bulow for Greater Wellington Regional Council

Background

[1] The Group N applications under the Act have been allocated hearing time for Stage 1(a) from 6 May 2024 to 27 June 2024. Further time was allocated for the Stage 1(b) hearing from 7 October 2024 to 29 November 2024.

[2] The parties involved in Stage 1(b) support an application for adjournment of the October/November¹ hearing as those participants have commenced direct Crown negotiations.

[3] Counsel for some of the applicants had initially asked for hearing time to be allocated in the third quarter of 2025 for the hearing of Stage 1(b). However, there was general agreement that this was not appropriate, given that the Crown negotiations were at an early stage and the parties were hopeful they would reach a resolution in that manner. The Stage 1(b) hearing is therefore adjourned to a case management conference on a date to be fixed by the Registrar in July 2025 for review.

[4] It is proposed that pūkenga will sit through the hearing. It became apparent that the May/June hearing time for Stage 1(a) did not allow time for the pūkenga report(s) to be prepared in a timely manner. There is general agreement that part of the October/November hearing time will be allocated for the evidence of the pūkenga and for closing submissions. Due to other commitments, counsel seek that the period of 29 October to 8 November be allocated for that evidence and submissions in relation to Stage 1(a).

[5] Therefore, I make the following directions:

- (a) The two weeks in the period 29 October 2024 to 8 November 2024 are allocated for the hearing of the pūkenga evidence and closing submissions.
- (b) The preliminary pūkenga report(s) will be filed and served on or before 10 May 2023, which follows the scheduled presentation of opening

¹ Sought by Tiratu Williams and Patricia Grace for the owners of Hongoeka Blocks (CIV-2017-485-258).

submissions.

- (c) The Crown will provide an electronic searchable and hyperlinked version of the collated evidence to date in electronic indexed form on or before 20 March 2024 for provision to the pūkenga. If the pūkenga also request a hard copy the Court will advise counsel.
- (d) The substantive pūkenga reports will be filed and served on or before 13 September 2024.

[6] At the case management conference held on 5 February 2024,² counsel indicated that while the October/November 2024 dates were too early, time would need to be allocated for hearing of part 2 (wahi tapū evidence and submissions for stage 1(a)), as the first substantive decision would need to be delivered following the completion of hearing in stage 1 allowing the parties sufficient time to then consider their positions for part 2 of stage 1(a). The first available date which will accommodate the estimate of time by counsel of three to four weeks is in the period commencing 4 July 2025. Unless that time is allocated, an alternative hearing time is unlikely to be available until late 2025/2026. Therefore I allocate three weeks in the period commencing 4 July 2025 for the wahi tapū evidence and submissions on part 1(a).

Pūkenga

[7] Dr Robert Joseph and Ms Moe Milne are pūkenga nominated by the parties. They are suitably qualified for the role and have indicated their availability. The applicants and interested parties are of the view that two pūkenga are necessary in these proceedings given the issues that will be before the Court. Furthermore, experience at earlier hearings of this nature has indicated that it is difficult for one pūkenga to collate and prepare the information in report form for the Court as well as related activities that might be required of them.

² Minute three of Grice J dated 8 February 2024.

[8] Accordingly, I appoint Dr Robert Joseph and Ms Moe Milne as pūkenga in these proceedings.

[9] The pūkenga will attend the hearings subject to their availability and receive copies of court documents and material filed subject to any restrictions directed. In the case of Ms Milne, she is unavailable on 10 and 17 May 2024 and 14 and 21 June 2024. It is therefore likely that the Court will not sit on those dates.

[10] The preliminary/initial pūkenga report will be filed and served on or before 10 May 2024. The preliminary/initial report will cover the following issues as agreed between the parties:

- (a) Qualifications: the background and qualifications of the pūkenga, particularly in tikanga; and
- (b) Approach and methodology: the approach and methodology that the pūkenga propose to take in assessing the parties' respective evidence.

[11] In relation the substantive report, counsel are to confer regarding the form of the issues, questions and guidelines to be provided to the pūkenga by the Court, and file a joint memorandum on or before 15 March 2024 to assist the Court in finalising that material for the pūkenga.

[12] Counsel agreed that:

- (a) The general questions this proposed by the applicants and interested parties in their memorandum should be included, that is:
 - (i) What concepts, expressions or applications of tikanga are relevant to determining whether a group holds an area in accordance with tikanga Māori, and how?
 - (ii) What concepts, expressions or applications of tikanga are relevant to the protected customary rights claimed by the applicants, and how?

- (b) The following question formulated by the Crown: “How should the Court understand the relationship at tikanga between the hapū and iwi who migrated to this district after 1820 and those who were present before those migrations?”.
- (c) Any other relevant questions, issues or guideline including but not limited to the concepts of “take raupatu” and “tuku whenua”.

[13] The final questions, issues, and guidelines will be determined by the Court following a joint memorandum to be filed by 27 June 2024 at 5.00pm.

Venue

[14] Various venues were considered by the parties and inquiries made as to availability. However, for various reasons, including objections raised as to location, the parties were agreed in general terms that the Wellington High Court was the most convenient venue. Accordingly, the hearings will take place in the High Court at Wellington.

Translation services

[15] The directions sought by the applicants and interested parties in relation to translation services are made as follows:

- (a) a court appointed translator will be present throughout the Stage 1(a) hearings in May and June; and
- (b) translations will be simultaneous.

[16] The above is subject to the translator being required and any directions of the court from time to time.

[17] I note that some parties may make arrangements for specific translators skilled in particular dialects to be available. They will raise that directly with the registry in a timely fashion.

Rangitāne o Manawatū Settlement Trust application to join

[18] The application to join on terms was made in terms of the minute dated 6 March 2024.³

[19] I note the Attorney-General proposed the following adjustments to the timetable:

- (a) that Rangitāne file its evidence by 4 March 2024; and
- (b) any reply evidence to be filed by 28 March 2023.

[20] In my minute granting leave to Rangitāne to join to appear and participate, I indicated counsel should confer to amend the timetable accordingly.

Boundary issues and amended boundary applications

[21] The Attorney-General seeks the following directions which are not opposed:

- (a) specifying the northern boundary of the hearing area as being at the northern boundary of the application area of Ngāti Raukawa (CIV-2017-485-229); that is, from a point at what appears to be the present northern bank of the mouth of the Rangitīkei River (-40.290, 175.222), extending due west to the outer limit of the territorial sea (-40.280, 174.957). This will include the application area of Ngāti Raukawa (CIV-2017-485-229) in its entirety, and exclude only a small portion of the application of Muaūpoko (CIV-2017-485-261), while avoiding overlaps with other application groups.
- (b) the northern boundary of the hearing area is the northern boundary of the application area of Ngāti Raukawa (CIV-2017-485-229) and what appears to be the present northern bank of the mouth of the Rangitīkei River (coordinates -40.290, 175.222), extending west to the outer limits of the territorial sea (-40.280, 174.957).

³ Minute of Grice J (Application by Rangitāne o Manawatu Settlement Trust) dated 6 March 2024.

[22] The Attorney-General has noted for the purposes of her map book due 28 March 2024, that the witnesses will prepare maps based on the current Muaūpoko Tribal Authority specified areas for their protected customary rights and customary marine title applications respectively (CIV-2017-485-261), pending their determination on the application by Muaūpoko to amend the CMT area.

[23] In relation to Ngāti Tamarangi Hapū (CIV 2017-485-160) for the purposes of the map book, witnesses will prepare maps based on the applicant's fourth amended application.⁴ The amendment represented a narrowing refinement of the application area and did not raise issues of admissibility. I confirm the amended application will be taken as the application for the purposes of the proceedings.

Seafood Industry Representatives

[24] Mr Scott made a brief appearance for the Seafood Industry Representatives. He indicated he would be appearing at the hearing and cross-examining, but would file no evidence. He indicated that his client was interested in both CMT and in wāhi tapu applications in particular.

Other matters

[25] Mr Bennion raised the fact that he had been approached by counsel for Lake Horowhenua Trust, which owned Māori freehold land to the low watermark. As the applications in the proceedings before the Court apply to the highwater mark, there may be a small area of coverage between that title and the applications. Mr Bennion indicated that counsel for the Trust wish to file papers concerning the legal implications on the crossover issue.

[26] I indicated that any such applications should be filed as a matter of urgency and the parties should confer and respond on their views in relation to that matter as soon as possible. I will not make any timetable directions on that as Mr Bennion will convey the position to counsel for the Trust.

⁴ Amended originating application of 2 February 2024 at [6].

[27] Mr Lyall raised some issues concerning the processing of applications for reimbursement of some parties by Te Arawhiti. Dr Ward for the Crown indicated that any issues arising in that regard should be directed to him to discuss directly with Te Arawhiti. Nothing further is required at this stage.

[28] A further CMC is set for 10 am on 29 April 2024.



Grice J

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