

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

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

CIV-2017-485-512

IN THE MATTER OF 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 CLETUS MAANU PAUL, Chairperson of the Mataatua District Māori Council, on behalf of all Māori (“the Applicant”)

CIV-2017-404-538

IN THE MATTER OF an application by RIHARI DARGAVILLE for an order recognising Customary Marine Title and Protected Customary Rights of New Zealand Māori Council Members

On the papers:

Counsel: J Mason for CIV-2017-485-512
G Sharrock for CIV-2017-404-538

Minute: 18 September 2019

**MINUTE (NO. 3) OF CHURCHMAN J
[Case Management Conferences 2019]**

Background

[1] Mr Dargarville and Mr Paul each filed claims under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act) that sought orders for Coastal Marine Title (CMT) and Protected Customary Rights (PCR) for all of New Zealand on behalf of all Māori.

[2] The applications did not make it clear which whānau, hapū or iwi the claims were being advanced in respect of. Each of the applications overlapped with all other claims made by every other applicant.

[3] A number of other applicants raised concerns with the Court that the broad and unspecified claims being advanced by the two applicants were impeding their ability to advance their own claims. They also submitted that they wished to run their own claims themselves and had not sought any assistance or representation from either of the applicants.

[4] Applicants appearing at the 2019 round of case management conferences indicated that unless the two applicants clarified who they were actually advancing claims in respect of, and what areas those claims related to, they would move to strike out each of the national applications.

[5] As an alternative to the adversarial process of a strike-out, the Court directed in its minute of 25 July 2019,¹ that each of the applicants, were, within one month of the date of the minute, to file a memorandum specifying what claims they were advancing, on whose behalf those claims were made, and what geographic areas they related to.

The Paul application

[6] By memorandum dated 25 August 2019, Ms Mason, on behalf of Mr Paul, identified seven separate applicants in respect of whom claims were being advanced. Each of the seven applicants claim CMT rather than PCR.

[7] No maps identifying the boundaries of the various claims were filed and the geographic descriptions of the extent of the claims were very broad.

[8] It appears that all of the areas that the claims relate to are the subject of claims by other applicants, and in some cases a number of other applicants. The information in the memorandum is insufficient for those other applicants to be able to accurately assess the extent to which these claims overlap their existing claims.

¹ Minute (No. 2) of Churchman J dated 25 July 2019, at [42].

[9] The memorandum concludes by saying that a “first amended application” with identifying maps will be “filed in the coming weeks”.

[10] It is important that there not be undue delay in clarifying exactly what claims are being advanced. The applicants who already have filed properly documented claims in respect of the areas that appear to be covered by these new applications are entitled to know the extent to which these new claims overlap with their own. That information is likely to have a significant effect on the manner in which they advance their own claim.

[11] Accordingly, I direct that adequate particulars of the amended claims being advanced by Maanu Paul in relation to the seven applicants identified in the memorandum dated 25 August 2019, including maps identifying the boundaries of the claim, be filed and served on all other applicants affected by the claims, within two months from the date of this minute.

The Dargaville application

[12] By memorandum dated 9 September 2019, Mr Sharrock, for Rihari Dargaville, identified five separate claims that were being advanced. Claims to all other parts of New Zealand were withdrawn.

[13] Accompanying the memorandum were basic maps.

[14] The first of the claims identified is said to be:

Hokianga claim is being adopted of Wai 2710 [sic] which includes the area from Mangonui Bluff through the Hokianga including the creeks of the sea to the southern point of Pawarenga Bay.

[15] The identity of the particular whānau, hapū or iwi advancing the claim is not clear. As this area is also the subject of multiple existing claims, those other applicants are entitled to know exactly who is advancing a claim in the same area as them.

[16] There is no indication in the document as to whether the claims are for CMT or PCR. Again, this information will need to be provided.

[17] In respect of the third identified claim covering “the area of Hawkes Bay/Wairarapa coast”, the memorandum says that Mr Dargarville continues to claim this area “while an appropriate claimant is finalised”. No map has been filed in respect of this claim at all. These areas are also the subject of a number of existing claims (as indeed are all the other claims identified by Mr Sharrock).

[18] Mr Sharrock’s memorandum concludes with the statement: “The claim [sic] will file amendments to the claim reflecting the final claims within 30 days of this memo.”

[19] As detailed above, the information in Mr Sharrock’s memorandum is insufficient to adequately inform either the Court or other applicants of the relevant details of the various claims including the identity of the claimants and the boundaries of the claim.

[20] I direct that, within two months from the date of this minute, Mr Sharrock is to file an amended claim detailing:

- (a) the identity of the claimants on whose behalf the claim is being advanced;
- (b) the nature of the claim;
- (c) the geographic area covered by the claim; and
- (d) a map relating to each of the claims and sufficient detail to give the other existing claimants a clear understanding of whether or not these claims overlap with existing claims.

[21] I direct that the amended application and supporting maps are to be served on all other applicants.

Churchman J