

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

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

CIV-2017-485-000218

UNDER the Marine and Coastal Area (Takutai Moana) Act 2011

IN THE MATTER OF An application by HORI TURI ELKINGTON, of Wellington, trustee of the Ngāti Koata Trust, for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011

(AND OTHER PROCEEDINGS LISTED
IN THE SCHEDULE TO THIS
MEMORANDUM)

Minute: 27 September 2017

MINUTE OF COLLINS J

[1] I have been asked by Venning J to manage all proceedings commenced under the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act). I was Solicitor-General from August 2006 to March 2012. I was not, however, involved in the passing of the Act or in giving advice that would preclude me from managing these proceedings. If any party or lawyer has a different view they should notify the court immediately.

[2] The vast number of proceedings under the Act creates logistical challenges that the court will do its best to manage. Appropriate resources will be committed to ensuring the court can respond to the administrative challenges of these proceedings.

[3] This minute addresses a number of matters that have arisen since Venning J issued his 10 July 2017 minute.

Priority proceedings under s 125 of the Act

[4] Section 125 of the Act gives priority to those applications that were commenced in the Māori Land Court under the Foreshore and Seabed Act 2004.

[5] The Crown has identified 11 applications that have been transferred to the High Court under s 125 of the Act. One of those proceedings (Tipene, 2011-486-000806) has been heard with a recognition order pending. Two of the 11 proceedings (Dunn, CIV-2011-485-000811 and Taylor & Ors (Moeangiangi), CIV-2011-485-000799) have been discontinued.

[6] The Crown advises that the current status of the remaining eight proceedings transferred to the High Court is as follows:

Applicant	CIV Number	Current Status
Taylor & Ors (Ngāti Pāhauwera)	CIV-2011-485-000821	Adjourned to allow engagement
Noble	CIV-2011-485-000814	Adjourned to allow engagement
Brooks and Hooker	CIV-2011-485-000803	Adjourned to allow engagement
Robinson	CIV-2011-485-000797	Adjourned to allow engagement
Edwards	CIV-2011-485-000817	Adjourned for hui
Reeder	CIV-2011-485-000793	Adjourned to allow engagement together with Nga Hapu o Te Moutere o Motiti, CIV-2015-485-767
Clarkson & Ors	CIV-2011-485-000789	Adjourned pending possible High Court application by Ngati Kere
Tangiora	CIV-2011-485-000794	Adjourned to allow engagement

[7] The Taylor (Ngāti Pāhauwera) application in the High Court is only likely to involve that part of the proceeding that is not the subject of a recognition agreement between Ngāti Pāhauwera and the Crown.

[8] The Crown advise that the remaining proceedings under s 125 of the Act relate to five separate iwi and rohe and that if any of these cases proceeds to a hearing in the High Court it will be necessary to determine if there are any overlapping applications under the Act and if so, whether they should be heard with any application that has statutory priority.

Next steps

[9] In order to progress towards a case management conference the following steps should be completed by applicants prior to **18 December 2017**:

- (1) Advise the court if they disagree that the priority claims under s 125 of the Act are those identified in [6] of this minute.
- (2) Advise the court of any overlapping claims that should be heard in conjunction with one or more of the claims that have statutory priority.
- (3) File any amended application and identify any proceedings they consider may be heard with another claim that is not a priority claim under s 125 of the Act. The same memorandum should also explain what priority if any should be given to such claims and the basis of that priority.

[10] Interested parties who have filed notices of appearance should file any amended notices of appearance by **26 February 2018**.

[11] By **2 March 2018**, the Crown will file and serve:

- (1) An amended notice of appearance for each application that, so far as is possible, particularise the Crown's position.

- (2) A memorandum identifying what applications should be heard together and what priority should be given to those claims.

Engagement

[12] The Crown is reviewing what applicants the Crown should engage with under s 95 of the Act and has identified six applicants at this stage that fall into this category. Nothing set out in this minute should be construed as a reason for the Crown and applicants deferring engagement under s 95 of the Act.

Leave

[13] Applicants, interested parties and the Crown are granted leave to file any memorandum that is required in relation to the timetable set out in this minute.

D B Collins J

Solicitors:
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Lovell & Associates Ltd, Upper Hutt