

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

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

CIV-2017-485-000218

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 SCHEDULE THREE OF
MEMORANDUM OF COUNSEL FOR
THE ATTORNEY-GENERAL DATED
7 MARCH 2018)

Minute: 21 March 2018

MINUTE (No. 2) OF COLLINS J

[1] This minute advises applicant groups and the Attorney-General of the court's intention to hold case management conferences on the dates and at the places identified in the schedule to this memorandum.

[2] Because of the logistical challenges of organising case management conferences in the limited space available in courtrooms, it is emphasised that the case management conferences referred to in the schedule are for applicants and the Attorney-General. Each applicant is asked to be represented by one counsel and one representative from the applicant group.

[3] The purpose of the case management conference is to identify as clearly as possible what issues will need to be addressed before the court puts in place timetables to have the substantive applications heard and determined.

Status of the Attorney-General

[4] My provisional view is that the Attorney-General is a party in each proceeding but in discharging his responsibilities as the Senior Law Officer of the Crown, the Attorney-General will be required to represent the public interest.

[5] If a hearing is required to determine the status of the Attorney-General in any or all proceedings, then counsel for the Attorney-General should inform the court of this need.

Orders relating to Attorney-General

[6] In his memorandum of 16 March 2018, the Attorney-General seeks a direction that he may, up until 3 April 2018, electronically serve an amended notice of appearance in a proceeding on all applicants in the relevant proposed case management groups for that proceeding, and on all interested parties to those applications. That application is granted but the Court still needs to receive a hard copy of all pleadings.

[7] In his memorandum of 22 September 2017, counsel for the Attorney-General indicated that he would prepare updated case management groups and maps if directed by the Court. I apologise for omitting to issue such a direction. I do so now.

Priority proceedings

[8] The Attorney-General has, in his memorandum of 7 March 2018 and in earlier memoranda, identified eight priority proceedings and overlapping applicants. The eight priority proceedings identified by the Attorney-General pursuant to s 125 of the Marine and Coastal Area (Takutai Moana) Act 2011 are:

Taylor & others	CIV-2011 -485-000821	(Ngāti Pāhauwera);
Reeder	CIV-2011-485-000793	(NgāPotiki);
Edwards	CIV-2011-485-000817	(Whakatōhea);

Clarkson	CIV-2011-485-000789; and	
Nobel, Brooks and Hooker and Maria Robinson	CIV-2011-485-000814) CIV-2011-485-000803) CIV-2011-485-000797)	respectively (named Ngāruahine hapū);
Tangiora	CIV-2011-485-00079	(Rongomaiwahine Iwi Trust)

together, the priority proceedings).

Schedule 1 to the Attorney-General's memorandum of 7 March 2018 identifies which applications are considered by the Attorney-General to overlap with priority proceedings.

[9] If any applicant wishes to challenge the Attorney-General's most recent assessments as to which applicants should be treated as having an overlapping interest in the priority proceedings, then they will need to identify their concerns in a memorandum that will need to be filed before the case management conference in accordance with the timetable I set out below.

Case management boundaries

[10] The Attorney-General seeks a direction that the Court adopts the case management groupings proposed by the Attorney-General in his memorandum of 30 June 2017 and accompanying annexures. The amendments proposed in Appendix A to the Attorney-General's memorandum of 22 September 2017 are also asked to be adopted, except where the appendix records a proposed amendment as a matter for the Court or to be discussed at a case management conference.

[11] I understand the Attorney seeks this change for purposes of clarification following communications with some applicants' counsel. In these circumstances I order accordingly.

Draft recognition orders

[12] The Attorney-General requires all applicants to amend their applications to include the draft recognition orders sought from the court. I will deal with this issue at the case management conferences.

Filing of maps

[13] The Attorney-General requires each applicant to file a map showing accurate boundaries of the application area so that the location of boundaries and the compass bearings of the boundary lines between seaward and landward boundaries is identifiable.

[14] Applicants will be required to comply with this request in accordance with the timetable set out below.

Non-compliance with s 51(2)

[15] In his memorandum, the Attorney-General identified a number of potential deficiencies in applications that require amendment or further and better particulars in order to comply with s 51(2) of the Act. That is an issue that will need to be addressed during the course of case management conferences.

Other issues

[16] The Attorney-General's memorandum identifies issues concerning unsworn affidavits, and the possibility of further evidence being filed. These are issues that will be addressed during the course of the case management conference.

Timetable for filing case management memoranda

[17] By **13 April 2018** all applicants will file memoranda in preparation for the case management conferences. Those memoranda will:

- (1) Identify the name of the applicant, their counsel and representative at the case management conference.

- (2) Record whether or not the applicant agrees with the Attorney-General's latest assessment as to which applicants overlap with the priority proceedings.
- (3) Set out draft recognition orders that each applicant seeks.
- (4) Contain a map that clearly identifies the boundaries of the application area on a current topographical map, so that the location of the boundaries and the compass bearing of the boundary lines between the seaward and landward boundaries is identifiable.
- (5) Identify what steps applicants propose to take to address the Attorney-General's concerns about non-compliance with the Act, and in particular, s 51(2) of the Act.
- (6) Identify what further affidavit evidence will be filed and when.

[18] The Attorney-General will file any memorandum in response by **27 April 2018**.

— —
D B Collins J

Solicitors:
Crown Law Office, Wellington for Attorney-General
Lovell & Associates, Upper Hutt

SCHEDULE OF CASE MANAGEMENT CONFERENCES

Date	Place
28 May 2018	Wellington
30 May 2018	Dunedin
31 May 2018	Nelson
5 June 2018	Gisborne
6 June 2018	Tauranga
7 June 2018	Rotorua
8 June 2018	Hamilton
20 June 2018	New Plymouth
25 June 2018	Whangarei
27 June 2018	Auckland