

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

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

**CIV-2017-485-000398**

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                              LOUISA TE MATEKINO COLLIER  
First Applicant

                                    AWHIRANGI LAWRENCE  
Second Applicant

                                    ARTHUR MAHANGA  
Third Applicant

                                    HAYWARD NORMAN  
Fourth Applicant

                                    MITCHELL ARAPETA COLLIER  
Fifth Applicant

Minute:                      17 September 2018

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**MINUTE (No. 3) OF COLLINS J  
[Re Test Case Proposal]**

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[1]      On 24 July 2018, Ms Mason, senior counsel for five applicants, whom I shall refer to as the “Ngāpuhi Applicants” applied to this Court to have their applications heard in two parts (the Ngāpuhi Application).

[2]      It was proposed that the first part of the Ngāpuhi Application “be used to provide a factual and evidential basis, as a test case, so that the Courts could determine what criteria are required to prove customary marine title”.

[3] The Second part of the Ngāpuhi Application asked the Court to state a case to the Māori Appellate Court.

[4] The Ngāpuhi Application engages the interests of 38 applicants in the coastal marine area covered by the Ngāpuhi Application. Ms Mason advises that six of those applicants appear to support the Ngāpuhi Application, four applicants have adopted a neutral stance and six have not expressed any view. There are, however, 20 applicants who, through their counsel, have opposed the Ngāpuhi Application. The Attorney-General also opposes the application.

[5] I was proposing to issue a judgment based upon the respective memoranda that have been filed. However, in her very comprehensive submissions filed on 4 September 2018, Ms Mason raises a number of matters not previously addressed by counsel for the affected applicants or the Crown.

[6] In order to ensure my decision concerning the Ngāpuhi Application is fully informed, I grant leave to counsel for the Crown and affected applicants time to respond to Ms Mason's memorandum. Any submissions they wish to make should be filed and served by **8 October 2018**. Ms Mason may file any further submissions in response to those submissions. She must do so, however, by **25 October 2018**.

[7] I will endeavour to deliver a decision concerning the Ngāpuhi Application during the course of November.

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**D B Collins J**

Solicitors:  
Phoenix Law Ltd, Wellington for Applicants  
Crown Law Office, Wellington for Attorney-General