

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

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

CIV-2011-485-000821

IN THE MATTER OF the Marine and Coastal Area (Takutai Moana) Act 2011

IN THE MATTER OF an application by the Trustees of the Ngāti Pāhauwera Development Trust TORO WAAKA, TANIA HODGES, TUREITI MOXON, CHAANS TUMATAROA-CLARKE, NGAIRE CULSHAW, REX ADSETT and RICHARD ALLEN on behalf of NGĀTI PĀHAUWERA for Customary Marine Title, Wahi Tapū Protection and Protected Customary Rights, originally filed by WAYNE TAYLOR, RUKUMOANA WAINOHU and KUKI GREEN as an application for protected rights

CIV-2017-485-000235

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

IN THE MATTER OF an Application by Malcolm J Kingi on behalf of Ngāi Tahu O Mohaka-Waikare for orders recognising Customary Marine Title and Protected Customary Rights

CIV-2017-485-000241

IN THE MATTER OF an Application by the trustees of the Maungaharuru-Tangitū Trust for and on behalf of Ngāti Kurumōkihi, Ngāti Marangatūhetaua, Ngāti Whakaari, Ngāti Tauira, Ngāti Te Ruruku ki Tangoio and Ngāti Tahu for orders recognising protected customary rights and customary marine title under Section 100(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

CIV-2017-485-000246

IN THE MATTER OF an Application under the Marine and Coastal Area (Takutai Moana) Act 2011

IN THE MATTER OF an application by Rapihana Te Kaha
Hawaikirangi on behalf of Ngāti Pārau

CIV-2017-485-000512

IN THE MATTER OF the Marine and Coastal Area (Takutai Moana) Act 2011

IN THE MATTER OF an application by CLETUS MAANU PAUL
for an order recognising Customary Marine Title

CIV-2017-404-000538

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

Hearing: 4 February 2019

Counsel: R N Smail for Ngāti Pāhauwera
S J Roughton for Ngāi Tahu O Mohaka-Waikare
S Eccles for Maungaharuru Tangitū Trust
M C L Tukapua for Ngāti Parau
J Mason for CM Paul
J Mason (acting on instructions from Mr Sharrock) for
R Dargaville
G L Melvin for Attorney-General

Minute: 12 February 2019

MINUTE OF COLLINS J

[1] I conducted the second case management conference (CMC) for this proceeding in Napier on 4 February 2019. The minutes of the CMC are available on line.

Ngāti Pāhauwera

[2] The territory covered by the claim brought on behalf of Ngāti Pāhauwera (CIV-2011-485-000821), which is a priority claim, has expanded so that it now extends from the mouth of the Poututu Stream in the north to the mouth of the Esk River in the south.

[3] Ms Smail, counsel for Ngāti Pāhauwera, advises that her clients' evidence, including the report from a historian, will be available by November/December 2019.

[4] Ms Smail estimates that two to three weeks hearing time will be required for her clients' case.

[5] Although Ms Smail's clients oppose the claims of overlapping claimants being heard contemporaneously with the claim by Ngāti Pāhauwera, there is in fact merit in the overlapping claims being heard contemporaneously with that brought on behalf of Ngāti Pāhauwera. The reasons for this are three-fold:

- (1) There are, at this stage, only five overlapping claims. There are no consequential "cascading" claims.
- (2) The territorial area covered by the claims is discrete.
- (3) Hearing the overlapping claims contemporaneously with the priority claim will ensure the most effective use of scarce resources.

[6] Accordingly, I direct that the overlapping claims will be heard contemporaneously with the priority claim brought on behalf of Ngāti Pāhauwera.

Ngāi Tahu O Mohaka-Waikare

[7] Ms Roughton represents Ngāi Tahu O Mohaka-Waikare (CIV-2017-485-000235). She advises that her clients anticipate calling approximately four witnesses and that her clients' evidence will take about four days. The evidence for Ngāi Tahu O Mohaka-Waikare will also be available by November/December 2019.

Maungaharuru Tangitū Trust

[8] Mr Eccles, counsel on behalf of the Maungaharuru Tangitū Trust (CIV-2017-485-000241), advises that the evidence of his client will require approximately one week's hearing time. His client has engaged two historians. The evidence for Maungaharuru Tangitū Trust should be available by November/December 2019.

Ngāti Parau

[9] Ms Tukapua, counsel on behalf of Ngāti Parau (CIV-2017-485-000246), advises her clients have engaged an historian, that her clients' evidence, comprising approximately four witnesses, will be completed by November/December 2019.

CM Paul/R Dargaville

[10] Ms Mason appeared for both Mr Paul and Mr Dargaville at the CMC. She advises she is likely to obtain instructions to represent individuals and hapū within the area covered by the Ngāti Pāhauwera application. She will file a memorandum advising the Court of her instructions in approximately four weeks.

[11] Ms Mason informed the Court she intends to liaise with other counsel to see if some historians can be instructed on a joint basis.

The Crown

[12] Mr Melvin, for the Crown, advised that the Crown would require approximately six months to respond to the evidence called on behalf of the applicants.

Interested parties

[13] There is notice from Pan Pac Forest Products Ltd explaining its desire to be heard in relation to the applications.

[14] Other interested parties may also wish to participate in this hearing.

Third case management conference

[15] The Registrar will arrange a third case management conference early in 2020 at which time I will put in place the timetable for the Crown to respond to the evidence of the applicants and for interested parties to also file their evidence in support of their cases.

Likely hearing dates

[16] A hearing date is to be organised for the second half of 2020. Seven weeks will be allocated.

D B Collins J

Solicitors:

Smail Legal Ltd, Auckland for Ngāti Pāhauwera
Tamaki Legal Ltd, Auckland for Ngāi Tahu O Mohaka-Waikare
DLA Piper, Wellington for Maungaharuru Tangitū Trust
Kahui Legal, Wellington for Ngāti Parau
Phoenix Law Ltd, Wellington for CM Paul and R Dargaville
Crown Law Office, Wellington