

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

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

CIV-2011-485-000793

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

IN THE MATTER OF An application by Colin Francis Reeder and
Ors on behalf of Ngā Potiki a Tamapahore
Trust for an order recognising Customary
Marine Title and Protected Customary
Rights

Hearing: 11 March 2021

Appearances: R Siciliano and J Lewis for Ngā Potiki Tamapahore Trust (CIV-
201-485-793)
J N Gear for Ngai Te Rangi Settlement Trust (CIV-2017-485-244)
M Sharp for Ngāti Hē Hapū Trust (CIV-2017-485-219)
T Bennion for Te Tāwharau a Ngāti Pukenga (CIV-2017-485-250)
N Tahana, A Tapsell and A Grant for Ngā Hapū o Ngāti Ranginui
Settlement Trust
G Melvin and A Goosen for Attorney-General
In attendance S Webster, V Carroll, R Ohia, K Rawiri, A
Timutimu

Date of minute: 15 March 2021

**MINUTE OF ASSOCIATE JUDGE P J ANDREW
FOLLOWING JUDICIAL SETTLEMENT CONFERENCE**

Introduction

[1] This minute follows the judicial settlement conference held in Tauranga Moana on Thursday, 11 March 2021.

[2] The minute contains agreed timetable directions leading to trial on **19 April 2021**. It provides for the filing of an agreed statement of facts, an agreed statement of issues and an agreed chronology.

[3] I also record that there is agreement as amongst the applicant parties that there is to be ongoing dialogue between representatives of Ngā Hapū o Ngāti Ranginui Settlement Trust, the Ngāti Hē Hapū Trust and others on the issue of the interests held by the various groups in Te Tāhuna o Rangataua. It is intended to conclude discussions by 31 March 2021. It is recognised by all parties that this process is taking place outside of the proceedings, but with a view to try and narrow the issues that the Court needs to determine.

[4] All directions relating to the conduct of the trial are of course subject to any further direction of the trial Judge (e.g. expert witnesses reading summaries, rather than full briefs of evidence and a site visit).

The boundaries of the Stage 1 inquiry for Te Tāhuna o Rangataua

[5] It is proposed that the seaward boundary of the Stage 1 inquiry is to be extended to the west so that the coastal marine area east of the white line in the map marked ‘A’ attached to the agenda for the judicial settlement conference, will be subject to the Stage 1 inquiry. In the directions that follow there is provision for the parties to file a joint memorandum by 31 March 2021 indicating their agreement to the proposed extension.

[6] I record Ngāti Hē advice that they will not be filing any further evidence in relation to the extended boundary.

The evidence

[7] The parties are agreed that the expert witnesses will not read all of their briefs of evidence, but rather prepare and read a summary of their evidence. Timetable directions for the filing of those summaries are set out below.

Orders and directions

- [8] By consent, I make the following orders and directions:
- (a) Counsel for Ngā Potiki a Tamapahore Trust (Ngā Potiki)are to circulate a draft trial timetable and a proposal for an agreed site visit by **17 March 2021**;
 - (b) Counsel for Ngā Potiki are to circulate to all parties, including the Crown, a draft index of documents for inclusion in the electronic bundle by **19 March 2021**. The electronic bundle is to be filed and served by the Crown;
 - (c) The parties are to file and serve a joint memorandum by **31 March 2021**, confirming any agreement (or otherwise) to the westward extension of the boundary of Te Tāhuna o Rangataua that is to be the subject of the Stage 1 inquiry.
 - (d) Any further evidence in relation to the extended boundary is to be served by **7 April 2021**;
 - (e) The Crown is to file an electronic bundle of documents by **7 April 2021**;
 - (f) Any amended applications by the applicants are to be filed and served by **7 April 2021**. Any amended Crown maps are to be filed and served by the same date;
- [9] The parties are to file and serve by **12 April 2021**, the following:
- (a) An agreed statement of facts;
 - (b) An agreed statement of issues;
 - (c) An agreed chronology;
 - (d) Opening submissions from all parties, including the interested parties (in this case the Attorney-General, the Tauranga City Council and the Bay of Plenty Regional Council);

- (e) The parties are to file and serve notification of their intention to cross-examine witnesses by **14 April 2021**;
- (f) Counsel for Ngā Potiki are to file and serve an agreed proposed trial timetable containing an order of witnesses, by **16 April 2021**;
- (g) Following Ngā Potiki, the other applicant parties will present their submissions followed by the Crown and then the Tauranga City Council and the Bay of Plenty Regional Council.
- (h) Subject to any direction of the trial Judge, the parties are agreed that there should be a site visit which should take place after the opening submissions. An agreed site visit agenda is to be filed and served by **16 April 2021**;
- (i) It is agreed that the trial will commence and conclude with mihi and karakia (subject to any further direction of the trial Judge) and the parties are to agree on the relevant protocols.

[10] I record the parties' agreement that ten days is likely to be sufficient for the trial.

Associate Judge P J Andrew