

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

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

**CIV-2017-485-232
CIV-2017-485-267
CIV-2017-485-259
CIV-2017-485-224
CIV-2017-485-221
CIV-2017-485-260
GROUP M, STAGE 1(a)**

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

IN THE MATTER OF an application for orders recognising
Customary Marine Title and Protected
Customary Rights

Minute: 6 May 2024

**MINUTE OF GWYN J
(Group M, Stage 1(a) – further hearing time)**

Current timetable

[1] In my Minute of 18 April 2024, I confirmed the following steps that are currently timetabled:

- (a) Dr Joseph will be available to be questioned by the parties on his supplementary report in relation to the wāhi tapu evidence on **Friday 17 May 2024** (Dr Joseph is to provide his report by Friday 10 May 2024). Counsel may participate in person at the Wellington High Court or by VMR.
- (b) Closing submissions will be presented on **Monday 29 and Tuesday 30 July 2024**. Again, counsel may participate in person or by VMR.

Questions for the Pūkenga

[2] In relation to the questions for the Pūkenga I have received the Attorney-General's memorandum of 24 April 2024 proposing some changes to the draft questions. I have conferred with Dr Joseph and confirmed that he will address his report to the questions as amended (appended to this minute).

Leave to file further evidence

[3] I also confirm that Te Ātiawa is granted leave to file the affidavit of Mr Morris Te Whiti Love dated 17 April 2024, in the form tendered by Ms Houra with her memorandum of 17 April 2024.

Stage 2 hearing

[4] As I discussed with counsel at the conclusion of the Stage 1(b) submissions on 3 May 2024, it is also necessary to allocate hearing time for a Group M, Stage 2(a) hearing, to confirm the form of orders to be granted. Counsel have indicated that a three day hearing will be required and ask that it be set down, if possible, in the first half of 2025.

[5] As with the setting of further dates for the Group M Stage 1(b) application, I appreciate the funding difficulties raised by the Attorney-General and the implications of that for all Takutai Moana Act applications. However, for the reasons articulated to counsel I agree that this matter does need to be timetabled now.

[6] Accordingly I direct that a three day fixture be allocated for Group M, Stage 2(a), and I ask the High Court Scheduler to confer with counsel as to possible dates for a three day fixture in the first half of 2025.

Gwyn J

APPENDIX A – QUESTIONS FOR PŪKENGĀ (WĀHI TAPU REPORT)

- (a) Having regard to the evidence, what tikanga is relevant to whether the wāhi tapu and / or wāhi tapu area claimed by the Applicants is a place sacred to Māori in the traditional, spiritual, religious, ritual or mythological sense?
- (b) Having regard to the evidence, what tikanga is relevant to the distinction between a wāhi tapu or wāhi tapu area generally, and one characterised by a sacred or spiritual element, that requires restrictions on access to protect it?
- (c) What aspects of tikanga are relevant to the assessment of:
 - (i) whether or not restrictions or prohibitions on access are required to protect a wāhi tapu?
 - (ii) the consequences of a failure to protect a wāhi tapu as required?
 - (iii) whether any exemptions are appropriate?
- (d) In what circumstances are tapu and noa activities incompatible, such that they cannot properly coexist within a wāhi tapu characterised by a sacred or spiritual element?