

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

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

CIV-2017-485-218

IN THE MATTER OF

An application by HORI TURI
ELKINGTON, trustee of Ngāti Koata Trust,
for recognition orders under the Marine and
Coastal Area (Takutai Moana) Act 2011.

AND OTHER PROCEEDINGS LISTED IN
THE SCHEDULE TO THIS
MEMORANDUM

Hearing: On the papers
Counsel: G Melvin for Attorney-General
Minute: 16 May 2024

MINUTE OF CHURCHMAN J

[1] Shortly after issuing my minute of 15 May 2024 in this matter, I received from counsel for the Attorney-General a memorandum of the same date. That memorandum provided information on two different topics.

[2] The first topic was to provide calculations as to the activity cost forecast by Te Arawhiti for financial year 2024/2025 in respect of direct engagement funding. The forecast cost of activity funding for Crown engagement only applicants was \$2.82 million out of a total for both direct engagement and litigation applicants of \$7.053 million. The lower range estimate for the same forecast was \$2.861 million out of \$6.978 million.

[3] The conclusion that can be drawn is that funding activity costs for direct engagement only applicants over the next financial year will appreciably eat into the

amount available to cover both activity and litigation costs for the litigation track applicants.

[4] The second topic that the memorandum dealt with was the issue of reimbursement to counsel for their costs of preparation for and participation in the Case Management Conference (CMC) on 10 May 2024.

[5] The memorandum provides that, to the extent that counsel incurred costs in respect of these activities, the Financial Assistance Scheme (the Scheme) provides for up to five hours of funding for court preparation as well as funding for the actual time in court and for actual and reasonable disbursements.

[6] The memorandum notes that as these costs are covered through court funding, the payment of them will not affect the applicant's activity funding allocations (of \$458,000 per applicant).

[7] Applicants who participated in the CMC will therefore be able to recover their costs directly from the Scheme.

[8] Some of the applicants sought full indemnity costs. The Attorney-General's submission on this was that if the Court was contemplating ordering such costs, the Court should set a timetable for submissions to be filed by those applicants and for submissions in reply by the Attorney-General.

[9] I am of the view that it would be an inefficient use of the Court's time and an uneconomic use of the available funds to further litigate the question of costs in relation to the participation by applicants in these proceedings. Given the indication by counsel for the Attorney-General as to how parties' costs can be claimed under the Scheme, I do not see that there is any justification for indemnity costs (should such costs be greater than the allowance under the Scheme). I decline the applications for indemnity costs.



Churchman J

Schedule

Applications and Court numbers

Court Number	Applicant
CIV-2017-485-196	Ngāti Awa
CIV-2017-485-183	Te Kaahui Rauru Trust
CIV-2017-485-290	Te Rarawa
CIV-2017-485-236	Ngāpuhi, Ngāti Kahu ki Whaingaroa
CIV-2017-404-579	Ngā Hapū o Tangaroa
CIV-2017-485-268	Ngā Hapū o Ngāti Kahu
CIV-2017-485-216	Ngā Hapū o Mōkau ki Runga
CIV-2017-485-222	Ngāti Tara Tokanui
CIV-2017-485-355	Te Whānau a Mokomoko
CIV-2011-485-793	Ngā Pōtiki ā Tamapahore
CIV-2017-485-302	Te Whānau a Ruataupare
CIV-2017-485-224	Rangitāne Tū Mai Rā
CIV-2017-485-258	Owners of Hongoeka Blocks
CIV-2011-485-803	Ōkahu Inuāwai Hapū
CIV-2011-485-814	Kanihi-Umutahi Hapū
CIV-2011-485-797	Ngāti Manuhiakai (Robinson)
CIV-2017-404-570	Te Hikutu Hapū
CIV-2017-485-270	Ngāi Tai
CIV-2017-485-248	Te Ātiawa ki Whakarongotai
CIV-2017-485-283	Ngātiwai
CIV-2017-485-249	Ngāti Kawau, Ngāti Kawhiti, Ngāti Haiti and Ngaitupango
CIV-2017-485-276	Ngāti Rongo o Mahurangi
CIV-2017-485-262	Ngāi Tamahaua
CIV-2017-485-377	Te Hapū Tītoko o Ngāi Tama
CIV-485-321	Ngāti Kuta and Patukeha
CIV-2017-485-289	Rongowhakaata Iwi Trust
CIV-2017-485-292	Ngāti Ruatakenga

CIV-2017-485-299 Ngāti Ira o Waioweka Rohe
CIV-2017-485-253 Ngāti Patumoana
CIV-2015-485-767 Ngā Hapū O Te Moutere O Motiti
CIV-2017-485-288 Te Rauhina Marae and Hapū
CIV-2017-485-255 Ngā Whānau o Hauti
CIV-2017-404-556 Ngāti Porou ki Hauraki
CIV 2017-485-239 Panoho whānau and beneficiaries of Te Rae Ahu Whenua Trust
CIV-2017-404-524 Ngāti Awa and Ngāpuhi
CIV-2017-485-273 Te Whānau Tima (Seymour) and Ngā Ahi Kā o Te Mateawa
CIV-2017-404-523 Ngā Hapū o Taiamai ki te Marangai
CIV-2017-485-201 Te Ūpokorehe Treaty Claims Trust
CIV-2017-485-293 Ngāti Hāua
CIV-2017-485-286 Patuharakeke
CIV-2017-485-254 Te Patutokotoko
CIV-2017-485-291 Ngāti Pikiāo/Ngāti Makino
CIV-2017-404-545 Ngāti Manuhiri,
CIV-2017-485-292 Whakatōhea Māori Trust Board
CIV-2017-404-563 Te Rūnanga of Ngāti Whātua
CIV-2017-404-479 Te Aitanga O Ngā Uri O Wharekauri
CIV-2017-404-480 Ngāti Hei
CIV-2017-404-481 Te Hika O Pāpāuma
CIV-2017-404-482 Ngāti Huarere Ki Whangapoua
CIV-2017-404-483 Ngāti Pū
CIV-2017-404-526 Nga Tini Hapu o Maniapoto
CIV-2017-404-528 Ngāti Hako
CIV-2017-404-522 Te Ihutai Ki Ōririā
CIV-2017-404-571 Ngāti Oneone
CIV-2017-485-267 Ngāi Tūkoko and Ngāti Moe
CIV-2017-485-232 Ngāi Tūmāpūhia a Rangi Hapū
CIV-2017-485-247 Ngā Hapū a Tokomaru Akau
CIV-2017-404-578 Ngāti Tara
CIV-2017-404-529 Te Whānau ō Rataroa
CIV-2017-485-233 Ngāi Tupango

CIV-2017-404-539 Ngāti Kawau and Ngāti Awa
CIV-2017-404-558 Ngāitawake
CIV-2017-485-245 Te Iwi o te Rarawa ki Ahipara
CIV-2017-485-799 Te Parawhau Hapū
CIV-2017-485-185 Ngāi Taiwhakaea Hapū
CIV-2017-419-82 Marokopa me Kiritehere
CIV-2017-404-573 Ngāti Tu ki Ngāpuhi
CIV-2017-485-261 Muaūpoko Tribal Authority
CIV-2017-485-250 Ngāti Pūkenga
CIV-2017-485-207 Ngāti Apakura
CIV-2017-485-257 Ngai Te Hapū
CIV-2017-485-259 Ngāti Hinewaka
CIV-2017-485-202 Ngāti Hikairo
CIV-2017-404-534 Ngāti Tama
CIV-2017-404-540 Ngāti Torehina Ki Mataure Ō Hau
CIV-2017-419-81 Ngāti Te Wehi
CIV-2017-485-307 Ngā Hapū o Te Wahapū o Hokianga nui ā Kupe
CIV-2017-419-83 Whāingaroa Moana Collective
CIV-2017-404-554 Ngā Hapū o Ngāti Wai Iwi
CIV-2017-404-559 Ngāti Kahu, Te Rarawa and Te Uriohina
CIV-2017-404-525 Ngāti Manu and Ngāti Rangi
CIV-2011-485-817 Edwards, on behalf of Te Whakatōhea
CIV-2017-485-264 Whakatōhea Pākōwhai
CIV-2017-485-375 Hiwarau, Turangapikitoi and Ohiwa of Whakatōhea
CIV-2017-404-566 Te Waiariki, Ngāti Kororā and Ngāti Takapari
CIV-2017-404-568 Ngāti Whakaue
CIV-2017-404-569 Ngāti Te Ata
CIV-2017-404-572 Ngāti Torehina Ki Matakā
CIV-2017-485-282 Ngāti Ruanui
CIV-2017-485-295 Te Whānau o Topi
CIV-2017-485-296 Ruapuke Island Group

CIV-2017-485-229 Ngāti Raukawa ki te Tonga

CIV-2017-485-220 Pāpāuma Marae Trustees

CIV-2017-485-221 Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua

CIV-2017-485-298 Whakarara Maori Committee

CIV-2017-485-244 Ngā Hapū o Ngāi Te Rangi