

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

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

**CIV-2017-404-480  
and Ors**

BETWEEN Marine and Coastal Area (Takutai Moana)  
Act 2011

AND applications listed in the schedule to this  
minute

Hearing: On the papers

Counsel: C Hirschfeld and B Tupara for Ngāti Hei, Ngāti Hako  
B Tupara for Ngāti Huarere ki Whangapoua  
B Lyall and H Swedlund for Ngāti Porou ki Hauraki  
M Sinclair and M Sharp for Ngāti He  
R Siciliano and C Ratapu for Ngāti Tara Tokanui  
D M Stone and C Leauga for Te Whanua a Te Harawaka  
C Ratapu for Whakatohea Rangātira Mokomoko  
J Mason for Te Runanga O Ngāti Whakaue ki Maketu Inc, Manu  
Paora Whanau, Tangihia Hapu, Ngāti Whakaue te Maketū Hapū,  
MAC 0107014 Ngāti Hokopū and Te Wharepaia  
H K Irwin-Easthope and R K Douglas for Ngāti Awa  
J Kahukiwa for Ngāti Whakaue  
T Castle for Ngāti Taiwhakaea Hapu  
J Koning for Ngāti Whakahemo  
L H Watson for Ngāti Hikakio, Ngāti Te Rangihouhiri II, Te  
Tawra  
J Gear for Ngā Hapū o Ngāi Te Rangī  
T Bennion for Ngāti Pūkenga  
M K Mahuika and N R Coates for Whanau A Apanui Hapu and Te  
Whanau a Apanui  
J Pou for Ngāti Makino and Ngāti Pikiāo  
T Hauraki for Trustees of Rurima Island Māori Reservation

Minute: 3 July 2024

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**MINUTE OF CHURCHMAN J**

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### **CIV-2017-404-480 Ngāti Hei**

[1] This applicant's historical report is close to being finished but its finalisation is dependent upon the availability of funding. Tangata whenua evidence continues to be developed and negotiations with overlapping applicants are underway.

[2] Given the uncertainty as to funding, this applicant seeks a 12 month adjournment.

[3] This matter is adjourned to be called in the 2025 Case Management Conferences (CMC). Counsel's attendance at the 2024 CMC is excused.

### **CIV-2017-404-482 Ngāti Huarere ki Whangapoua**

[4] Evidence preparation is well underway as are discussions with overlapping applicants. The uncertainty as to funding is hampering conclusion of preparation for hearing. This application is adjourned for 12 months for call in the 2025 CMCs. Counsel's appearance at the 2024 CMC is excused.

### **CIV-2017-404-528 Ngāti Hako**

[5] Historical and tangata whenua evidence preparation is underway but not complete. Once again delays to payment for work already completed and uncertainty as to future funding are an impediment to completion of preparation.

[6] This application is adjourned for 12 months to be called again at the 2025 CMC. Counsel's attendance at the 2024 CMC is excused.

### **CIV-2017-404-556 Ngāti Porou ki Hauraki**

[7] This applicant's preference remains direct engagement however it continues to prepare for hearing and is in discussions with overlapping applicants. The applicant is unable to conclude a contract with a historian in the absence of confirmation that this work will be funded.

[8] This application is adjourned for 12 months until the 2025 Tauranga CMC and counsel's appearance at the 2024 CMC is excused.

**CIV-2017-484-219 Ngāti He**

[9] Parts of this application have been heard in the Stage 1 and Stage 2 Ngā Potiki Priority application hearings. Another part of the application is scheduled to be heard in the Stage 3 hearings to commence after 1 February 2026. Preparation for participation in that hearing is hampered by funding availability. The application is adjourned for 12 months to be called at the 2025 Tauranga CMC. The appearance of counsel at the 16 July 2024 CMC is excused.

**CIV-2017-485-222 Ngāti Tara Tokanui**

[10] This applicant's preference is Crown engagement, as overlapping applicants wish to proceed to a hearing. This applicant is also preparing for hearing.

[11] Since the 2023 CMC some progress has been made with the applicants Crown engagement application. Tangata whenua and historical evidence preparation is well advanced but affected by uncertainty about continued funding.

[12] This matter is adjourned for 12 months to be called at the 2025 Tauranga CMC and counsel's attendance at the 16 July 2024 CMC is excused.

**CIV-2017-485-238 Te Whanua a Te Harawaka**

[13] Discussions with overlapping applicants are yet to commence and funding uncertainty is hampering progress.

[14] This matter is adjourned to be called at the 2025 Rotorua CMC and counsel's attendance at the 2024 CMC is excused.

**CIV-2017-485-355 Whakatōhea Rangātira Mokomoko**

[15] This applicant participated in the Re Edwards (Whakatōhea) hearings. It continues to engage with overlapping groups working towards finalising draft

protected customary rights (PCR) orders and maps. The unavailability of funding to produce customary marine title (CMT) and wāhi tapu maps has adversely impacted on this process. The outstanding Supreme Court hearing of the appeals in respect of these matters is also delaying finalisation of orders.

[16] This matter is adjourned to be called again in the 2025 Rotorua CMC. Counsel's attendance at the 2024 CMC is excused.

**CIV-2016-485-770 Te Runanga O Ngāti Whakaue ki Maketu Inc**

**CIV-2017-485-166 Ngāti Awa**

**CIV-2017-404-568 Ngāti Whakaue**

**CIV-2017-485-185 Ngāti Taiwhakaea Hapu**

**CIV-2017-485-223 Ngāti Whakahemo**

**CIV-2017-485-227 Ngāti Hikakio, Ngāti Te Rangihouhiri II, Te Tawra**

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

**CIV-2017-485-250 Ngāti Pūkenga**

**CIV-2017-485-278 Whanau A Apanui Hapu**

**CIV-2017-485-291 Ngāti Makino and Ngāti Pikiāo**

**CIV-2017-485-317 Trustees of Rurima Island Māori Reservation**

**CIV-2017-485-318 Te Whanua a Apanui**

**CIV-2017-485-513 Manu Paora Whanau**

**CIV-2017-485-514 Tangihia Hapu, Ngāti Whakaue te Maketū Hapū**

**CIV-2017-485-770 MAC 0107014 Ngāti Hokopū and Te Wharepaia**

[17] Of these applicants are all signatories to a joint memorandum dated 26 June 2024. Although Ngāti Hokopū and Te Wharepaia are direct engagement only applicants, they are hapu of Ngāti Awa and may participate in the Tauranga central hearing under the korowai of Ngāti Awa. All applicants are scheduled to participate in the central Bay of Plenty hearing currently set down for 10 weeks to commence in May 2025.

[18] The Attorney-General, on behalf of Te Arawhiti has indicated that there is not enough funding provided for the next financial year to fund that hearing. The applicants are presently considering their positions in light of these issues. The parties are discussing options among themselves and with the Attorney-General. No obvious solution has yet emerged. Presently, there has been no application to adjourn the hearing but unless there is some change to Te Arawhiti's ability to fund both remaining required preparation and the running of the hearing itself, it appears likely that an adjournment application will be received.

[19] The joint memorandum indicated that a further memorandum would be filed updating the Court as soon as possible and seeking any required directions. While the Court fully understands the difficult position that counsel are in it is necessary that some time limit be placed on any decision to seek an adjournment of the hearing.

[20] Accordingly, these matters are adjourned to be called again in December 2024 on a date to be advised to the parties by the Registrar. Counsel's attendance at the 2024 Tauranga CMC is excused. If progress is made in resolving funding issues prior to December 2024, counsel are to promptly file a memorandum outlining the position.

#### **CIV-2011-485-793 Ngā Potiki and Whakatōhea hearings**

[21] No memoranda have been received from counsel for a number of applicants in the Ngā Potiki and Edwards (Whakatōhea) hearing. That is understandable given that most of those applicants are either waiting for decisions or awaiting an outcome of the Supreme Court hearing in the Whakatōhea (Edwards) matter.

[22] Both the Tauranga and Rotorua 2024 CMCs are vacated. Should any counsel who have not filed memoranda wish to raise matters with the Court, seeking directions they may do so at the Hamilton CMC on Thursday 11 July 2024. If they wish to appear by VMR they should contact the Registrar to arrange that. They should also file a brief memorandum setting out the issues that they require directions on.

[23] All applicants whose matters have been adjourned to the 2025 CMC, are required to file an updating memorandum no later than 30 days prior to the date of their 2025 CMC.

**Churchman J**

## Schedule

### Applications and Court numbers

| <b>Court Number</b> | <b>Applicant</b>                                  |
|---------------------|---|
| CIV-2017-404-480    | Ngāti Hei   |
| CIV-2017-404-482    | Ngāti Huarere ki Whangapoua                       |
| CIV-2017-404-528    | Ngāti Hako  |
| CIV-2017-404-556    | Ngāti Porou ki Hauraki                            |
| CIV-2017-484-219    | Ngāti He  |
| CIV-2017-485-222    | Ngāti Tara Tokanui                                |
| CIV-2017-485-238    | Te Whanua a Te Harawaka                           |
| CIV-2017-485-355    | Whakatohea Rangātira Mokomoko                     |
| CIV-2016-485-770    | Te Runanga O Ngāti Whakaue ki Maketu Inc          |
| CIV-2017-485-166    | Ngāti Awa   |
| CIV-2017-404-568    | Ngāti Whakaue                                     |
| CIV-2017-485-185    | Ngāti Taiwhakaea Hapu                             |
| CIV-2017-485-223    | Ngāti Whakahemo                                   |
| CIV-2017-485-227    | Ngāti Hikakio, Ngāti Te Rangihouhiri II, Te Tawra |
| CIV-2017-485-244    | Ngā Hapū o Ngāi Te Rangi                          |

|                              |   |
|------------------------------|---|
| CIV-2017-485-250             | Ngāti Pūkenga                               |
| CIV-2017-485-278             | Whanau A Apanui Hapu                        |
| CIV-2017-485-291             | Ngāti Makino and Ngāti Pīkiao               |
| CIV-2017-485-317             | Trustees of Rurima Island Māori Reservation |
| CIV-2017-485-318             | Te Whanua a Apanui                          |
| CIV-2017-485-513             | Manu Paora Whanau                           |
| CIV-2017-485-514             | Tangihia Hapu, Ngāti Whakaue te Maketū Hapū |
| CIV-2017-485-770 MAC 0107014 | Ngāti Hokopū and Te Wharepaia               |
| CIV-2011-485-793             | Ngā Potiki and Whakātohea                   |