

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

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

**CIV-2017-404-522**

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

IN THE MATTER of an application by Te Ihutai Ki Orira and  
Others as per the schedule

Minute: 31 July 2024

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**MINUTE OF CHURCHMAN J  
[Case Management Conferences 2024]**

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**General observations**

[1] Significant progress has been made over the past 12 months in case managing applications towards hearing, timetabling applications for hearing and conducting hearings. Hearings for the southern Wairarapa Coast and northern Wairarapa Coast commenced on 4 September 2023 and 12 February 2024 respectively. A similar lengthy hearing in respect of the Whangārei Harbour commenced on 12 February 2024. A hearing for the Kapiti Coast commenced on 6 May 2024 and a hearing in respect of Aotea Harbour commenced on 17 June 2024. All of these hearings have been completed.

[2] The Whangārei Coast hearing was scheduled to commence in July 2024, but the commencement has been delayed because of uncertainty as to the availability of funding. It is likely to commence shortly. The sequel to the Kapiti hearing (involving Porirua and the Wellington Coast) is scheduled to commence on 7 October 2024. The South Taranaki hearing is scheduled to commence on 17 February 2025, the Ruapuke Island (in Foveaux Strait) to commence on 24 March 2025 and the Central Bay of Plenty hearing on 5 May 2025. Other than in respect of the Ruapuke Island hearing, funding uncertainties mean that those allocated hearings may

not be able to proceed. A number of other substantial hearings have been listed as being ready to proceed but have not been able to be allocated hearing dates.

[3] The most significant development has been the inability of Te Arawhiti to continue to fund both the preparation for hearings and the hearings themselves. The amount of money that Te Arawhiti presently has available to it, both for the funding of litigation and direct engagement applications, is sufficient to fund only a fraction of those cases that have either been scheduled for hearing or are ready for hearing and awaiting a fixture.

[4] Te Arawhiti's decision not to fund Case Management Conferences (CMC) (other than for those cases which have been allocated a firm hearing date) has created significant problems. Most of the hearings, of necessity, involve the simultaneous hearing of a number of applications which overlap either in whole or in part. In order for justice to be done to the applicant parties it is necessary that all applicants who are claiming CMT in respect of any given area have the opportunity to participate in the hearing relating to that area.

[5] This can include giving direct engagement only applicants a notification of a proposed hearing in relation to their area and allowing them the opportunity of participating as an interested party in that hearing. The reason for this is that it is not possible to have overlapping Customary Marine Titles therefore, once an applicant or group of applicants is awarded Customary Marine Title for any particular area, other applicants (either litigation or direct engagement) are deprived of the opportunity to be awarded CMT in respect of the same area.

[6] Regular Case Management Conferences are therefore an important tool in allowing the Court to identify those applicants who are ready for hearing and able to participate in a multi-party hearing. In other words, the conferences are necessary at a stage prior to the actual allocation of a hearing date and to the making of timetable orders. Te Arawhiti's decision not to fund those CMCs has the potential to reduce the ability of the Court to progress all of the cases before it to hearing in a just and expeditious manner.

[7] Over the past 12 months the Court has encouraged applicants to file memoranda ahead of the Case Management Conference that their clients are involved with, detailing their compliance with directions given at prior Case Management Conferences and listing such directions as they may require. In many instances this has allowed the Court to make the necessary directions on the papers and excuse counsel's attendance. In some cases, it has allowed the Court to vacate the Case Management Conference entirely. In other cases where only a small number of counsel have failed to file memoranda, Case Management Conferences have been held by VMR in order to avoid the necessity for counsel who have not filed memoranda to have to travel to a court hearing.

[8] It is likely that, unless there is a particular need for an in-person Case Management Conference, that in 2025, all Case Management Conferences will be held by way of VMR. Counsel are reminded of the need to file and serve their memoranda for the CMCs no later than 30 days prior to the date scheduled for the CMC.

[9] A Schedule of the proposed 2025 CMC dates is attached to this memorandum.

#### **Whangārei CMC — 9 July 2024**

**Counsel:** B Tupara for Te Ihutai ki Orira  
B Loader for Ngāti Tu ki Ngāpuhi  
C Hockly for Te Whakapiko hapu of Ngāti Manaia, Te Parawhau, Reweti and Rewha Whanau  
J Inns for Ngātiwai Trust Board  
L Thornton for McGee Whānau  
W McCarthy for Whānau of Ohawini of Ngātiwai descent, Ngā Uri o Pita Kino and Whangaroa Ngāiotonga Trust  
W McCarthy for Haika, Hetaraka, Leului and other Mokau Whānau  
M Enright for Te Parawhau Hapu  
Ngāti Torehina Ki Mataure o Hau, self-represented  
Te Whanau o Hone Papita Raua Ko Rewa and Ataria Paama, self-represented  
Ngāti Rahiri and Ngāti Kawa, self-represented  
T Ulrich for Te Whānau Moana, Te Rorohuri and Haititaimarangai Marae 339 Trust  
G Erskine and T Afeaki for Ngā Hapū o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai and Waimarie  
T Afeaki for Ngā Hapū o Kgāti Kahu

Interested Party  
G L Melvin and F S Hussain for Attorney-General

*CIV-2017-404-522 Te Ihutai ki Orira*

[10] Mr Tupara advised that this matter was close to being ready for hearing. It overlaps with six other applications. Discussions with the overlapping applicants are at an early stage.

[11] Counsel raised the possibility of a Judicial Settlement Conference (JSC). In appropriate circumstances the Court is able to schedule JSCs but there are some limitations on the matters that they are able to address. The ultimate question of whether an applicant or group of applicants meets the statutory criteria for Customary Marine Title (CMT) or Protected Customary Rights (CMT) is a decision for the Court. However, where a JSC may be useful is in addressing and resolving issues of overlap as between different applicants. If such issues are resolved at an interlocutory stage, the time taken for a hearing may be considerably reduced.

[12] However, before the Court directs a JSC it needs to be satisfied that the issues that are to be the subject of the JSC are identified, the parties to whom those issues relate have indicated a willingness to participate in good faith in a JSC and that there is a prospect that a positive outcome from a JSC would materially reduce the time required for the substantive hearing. Normally this information would be provided by way of a joint memorandum of counsel.

[13] I invite Mr Tupara to discuss these issues with counsel for the overlapping parties and to file a joint memorandum. Instead of adjourning the matter to be called in six months' time as suggested by Mr Tupara, there is no reason why such a memorandum cannot be filed as soon as it has been prepared. The Court can then determine what the next procedural step should be.

[14] Mr Tupara also sought a two week fixture to be set down for 2025 or 2026. Given the extensive overlaps it would be inappropriate to just hear this application on its own. A hearing involving all overlapping applications is likely to significantly exceed two weeks in duration.

[15] In order to allow Mr Tupara the opportunity to pursue the initiative for a JSC, I adjourn this matter for 12 months to be called again at the 2025 Whangārei Case Management Conference (CMC).

*CIV-2017-404-573 Ngāti Tu ki Ngāpuhi*

[16] This applicant has been involved in the Whangārei Stage 1A hearing and will be involved in the Stage 1B hearing, scheduled to commence shortly. Engagement, in accordance with tikanga, with overlapping applicants is continuing. No further orders are required and this matter is adjourned to the 2025 Whangārei CMC.

*CIV-2017-485-228 Te Whakapiko hapū of Ngāti Manaia*

*CIV-2017-485-305 Te Parawhau*

*CIV-2017-485-352 Reweti and Rewha Whanau*

[17] Mr Hockly appeared for these three applicants. Ngāti Manaia have commenced research but the uncertainty as to funding has halted that. That application is adjourned for 12 months to be called at the 2025 Whangārei CMC.

[18] Te Parawhau have participated in the Whangārei Stage 1A hearing and intend to be participants in the Whangārei 1B hearing. No further directions are required and this matter is adjourned to be called at the 2025 Whangārei CMC.

[19] Rewha and Reweti Whanau along with six other applicants, have claims in the Whangaruru rohe on the eastern coast of Te Tai Tokerau. Their claim is adjourned to be called again at the 2025 Whangārei CMC.

*CIV-2017-485-283 Ngātiwai Trust Board*

*CIV-2017-485-256 McGee Whānau*

*CIV-2017-485-306 Whānau of Ohawini of Ngātiwai descent*

*CIV-2017-485-408 Ngā Uri o Pita Kino*

*CIV-2017-485-409 Whangaroa Ngāiotonga Trust*

*CIV-2017-488-29 Haika, Hetaraka, Leuluai and other Mokau Whānau*

[20] The applications relating to the Whangaruru rohe are close to being ready to proceed to hearing. However uncertainty as to continued funding has lead the applicants to seek an adjournment for 12 months. All these applications are adjourned to be called again at the 2025 Whangārei CMC.

*CIV-2017-485-799 Te Parawhau Hapū*

[21] This applicant has participated in the Whangārei Harbour 1A hearings and intends to participate in the 1B hearings. No further orders are required and the matter is adjourned to be called again at the Whangārei 2025 CMC.

*CIV-2017-485-271 Te Whānau Moana and Te Rorohuri, and Haititaimarangai Marae 339 Trust*

[22] This applicant's application relates to the area surrounding the Karikari peninsula. It is scheduled for a 12 week fixture commencing no earlier than 1 February 2026. No specific date has yet been set. Whether a date can be allocated depends on decisions made by the Crown in relation to funding. This matter is adjourned to be called again at the 2025 Whangārei CMC.

*CIV-2017-404-579 Nga Hapu o Tangaroa ki Te Ihu o Manaia tae atu ki Mangawhai and Waimarie*

*CIV-2017-485-268 Ngā Hapu o Ngāti Kahu*

[23] Mr Afeaki advised that his clients intended to participate in the Whangārei 1B hearing should it proceed, and funding be confirmed. No further orders were required and the matter is adjourned again to be called at the 2025 Whangārei CMC.

*Interested party — Attorney-General*

[24] Mr Melvin acknowledged that he had read the concerns expressed in the various memoranda filed on behalf of applicants as to the consequences of the uncertainty around funding and indicated that he would draw that matter to the attention of Te Arawhiti. I expressed my concern to Mr Melvin as to the withdrawal by Te Arawhiti of all funding in respect of attendance at Case Management Conferences other than those conferences in respect of matters that had been set down for hearing. The purpose of such conferences is set out in r 7.1 of the High Court Rules (HCR) 2016. It is to promote the just, speedy and inexpensive determination of defended hearings. They are particularly useful in relation to complex litigation.

[25] HCR 7.1(4) defines “complex defended proceeding” as being “one that, in a Judge’s opinion, needs intensive case management and therefore needs more than one case management conference before a fixture is allocated.”

[26] Claims under the Marine and Coastal Area (Takutai Moana) Act are typically complex. Invariably there are multiple overlapping claims, each applicant asserting an entitlement to exclusive rights. Because it is not possible to issue multiple overlapping Customary Marine Titles for the same area, justice requires the Court to identify all applicants potentially affected by a proposed hearing and to attempt to ensure that all affected applicants are progressing towards being able to fully participate in the hearings.

[27] Significant efficiency gains can and are being made at the periodic CMCs. Where the Court has to manage multiple, complex applications which involve groups

of overlapping applications being heard together, CMCs are an important tool in ensuring the just, timely and prompt resolution of that litigation.

[28] The Marine and Coastal Area (Takutai Moana) Act cases require a significant allocation of judicial and administrative resource. If attendance of counsel at CMCs is not funded, counsel are, understandably, unlikely to participate in such conferences. That may well adversely impact on the court's ability to ensure that these cases move forward to hearing in an orderly and timely way. Mr Melvin indicated he would convey to Te Arawhiti the Court's views on its decision not to fund CMC other than those in respect of cases already allocated a hearing.

#### *2025 Whangārei CMC*

[29] Given the current unavailability of funding for counsel to attend the CMCs, it is likely that the 2025 CMCs will be dealt with by way of VMR (unless there are issues of contention between applicants that require in person attendance of counsel) with counsel, as has been done in the past, to file, at least 30 days prior to the scheduled CMC, memoranda confirming what progress has been made. If this is done, in most cases the Court will be able to excuse counsel's attendance and, in some cases, vacate the CMC.

#### *Failure to file memoranda*

[30] Three applicants (all of whom are self-represented): CIV-2017-404-540 Ngāti Torehina Ki Mataure o Hau; CIV-2017-404-555 Te Whanau o Hone, Papita Raua Ko Rewa and Ataria Paama and CIV-2017-404-577 Ngāti Rahiri and Ngāti Kawa, failed to file memoranda for the 2024 Whangārei CMC. Neither did they appear either in person or by VMR at the CMC.

[31] If applicants neither file memoranda nor attend the CMC, they risk getting left behind and ultimately having hearings for areas in which they are interested, allocated and then being unable to adequately (or at all) participate in those hearings. They may therefore entirely lose the opportunity to seek an order for Customary Marine Title (CMT). All such applicants are therefore strongly encouraged to participate in the



Case Management Conferences so that, when the Court comes to setting down application hearing areas, their views and interests are not overlooked.

#### **Auckland CMC — 10 July 2024**

**Counsel:** H J Fletcher for Ngāti Rehua – Ngāti Wai ki Aotea CIV-2017-404-580  
R Siciliano for Ngāti Tai ki Tāmaki CIV-2017-404-564  
A Sykes for Ngāti Rongo o Mahurangi CIV-2017-485-275  
L Black for Taumata B Block Whānau CIV-2017-485-187 and Pakiri G Block and Ors CIV-2017-485-188  
L Thornton for Ngāti Maraeariki and its hapū Ngāti Rehua and Ngāti Wai ki Aotea CIV-2017-485-378  
J Cheong for Te Whānau-a-Haunui CIV-2017-404-582  
Te M Rurehe for Ngāti Rongo o Mahurangi CIV-2017-485-276, Ngāti Maraeariki, CIV-2017-485-378  
J Cheong for Te Whanau-a-Haunui CIV-2017-404-582

#### Interested Parties

G Melvin and F Hussain for Attorney-General  
T Greensmith-West for Hauraki District Council, Waikato District Council and Thames-Coromandel District Council  
H Atkins and R Gardner for Manaia Properties Ltd

*CIV-2017-404-580 Ngāti Rehua – Ngāti Wai ki Aotea*

*CIV-2017-404-564 Ngāi Tai ki Tāmaki*

*CIV-2017-485-275 Ngāti Rongo o Mahurangi*

*CIV-2017-485-378 Ngāti Maraeariki and its hapū*

[32] Counsel for these applicants have filed a joint memorandum. There are some 23 High Court applications which overlap the application of Ngāti Rehua - Ngāti Wai ki Aotea. Counsel have engaged with all of those applicants, however a number have not responded to that initiative. Ngāti Rehua - Ngāti Wai ki Aotea proposes having its application and that of the overlapping applicants determined by the High Court in the second half of 2027. The proposed hearing area would include Aotea (Great Barrier Island), Hauturu (Little Barrier Island), Mokohieau Islands, Rakitu Island and Motu Tohora.

[33] Progress has been made with some overlapping parties to agree on boundary issues. A historical report is in preparation.

[34] Ngāi Tai ki Tāmaki continue to seek Crown engagement but if a hearing is timetabled in respect of the Ngāti Rehua - Ngāti Wai ki Aotea application, Ngāi Tai ki Tāmaki will participate as an applicant.

[35] Ngāti Rongo o Mahurangi do not seek a hearing themselves and are awaiting clarification of funding but if Ngāti Rehua - Ngāti Wai ki Aotea's application is to proceed, they will participate. They support the Ngāti Rehua - Ngāti Wai ki Aotea hearing proposal.

[36] Ngāti Maraeariki and its hapū Ngāti Rehua and Ngāti Wai ki Aotea generally support the application by Ngāti Rehua - Ngāti Wai ki Aotea.

[37] Mr Fletcher for Ngāti Rehua - Ngāti Wai ki Aotea sought that a teleconference be scheduled for December 2024 for the purpose of all overlapping applicants having the opportunity of discussing the hearing proposal. That is a sensible proposal. Before the Court schedules what is likely to be a substantial hearing, it needs to understand exactly how many applicants are likely to participate in that hearing. Present funding uncertainties, however, will mean that while the Court can indicate a date before which a hearing will not commence it is not in a position to presently allocate a firm start date.

[38] Accordingly, I request the Registrar to arrange a teleconference at a convenient date in December 2024 and to invite all applicants potentially affected by the hearing proposal put forward by Ngāti Rehua - Ngāti Wai ki Aotea to participate in that teleconference. All applicants are to file a memorandum no later than 30 days prior to the date fixed for the teleconference advising the Court of their attitude to the proposed hearing.

*CIV-2017-485-187 Taumata B Block Whānau*

*CIV-2017-485-188 Bouchier*

[39] Ms Black appears for both these applicants. Her clients do not oppose the request for a hearing made by Ngāti Rehua - Ngāti Wai ki Aotea. However, they seek no timetabling directions in respect of their own application as a result of funding

uncertainty. These applications are adjourned to the date to be fixed in December 2024 for consideration of the hearing proposed by Ngāti Rehua - Ngāti Wai ki Aotea.

*CIV-2017-485-276 Ngāti Rongo o Mahurangi*

[40] This applicant supports the Ngāti Rehua – Ngāti Wai ki Aotea hearing proposal.

*CIV-2017-404-582 Te Whānau-a-Haunui*

[41] This applicant is interested in the area on the western side of the Coromandel Peninsula. Their application does not overlap with Ngāti Pūkenga’s in relation to Manaia Harbour. Their evidence preparation is expected to take at least a further 24 months. Their preference was direct engagement but given the complete lack of progress in that regard, they are resigned to pursuing the litigation pathway. This matter is adjourned until the 2025 Auckland CMC.

*Interested party — Manaia Properties Ltd*

[42] Ms Atkins, counsel for interested party Manaia Properties Ltd advised of her new contact details (email — [Helen.Atkins@AtkinsLawNZ](mailto:Helen.Atkins@AtkinsLawNZ)). Mr Gardner attended the CMC on behalf of Manaia Properties Ltd. His client sought no directions but indicated an intention to participate in any hearings allocated.

*Interested party — Attorney-General*

[43] Mr Melvin acknowledged that Mr Fletcher had contacted him requesting that the Attorney-General notify all overlapping Crown engagement applicants of the proposed hearing for Aotea/Hauturu. Mr Melvin indicated that he had overlooked responding to that request but would follow up on that. He also indicated that he would raise with Te Arawhiti counsel’s concerns in respect of those matters where there had been no progress in respect of requests for Crown engagement.

## Hamilton CMC — 11 July 2024

**Counsel:** R Siciliano for Nga Hapū o Mokau ki Runga CIV-2017-485-209, Nga Hapu o Mokau ki Runga CIV-2017-485-216  
V Morrison-Shaw for Ngāti Tama CIV-2017-404-534, Te Runanganui o Ngāti Hikairo CIV-2017-485-202  
R Siciliano for Ngāti Mahuta ki te Hauaaauru CIV-2017-404-575  
H Jamieson for Kawhia Tangata, Aotea Whenua, Whaingaroa Moana CIV-2017-419-080  
B Loader for Marokopa me Kiritehere CIV-2017-419-082

*CIV-2017-485-209 Nga Hapū o Mokau ki Runga*

*CIV-2017-485-216 Nga Hapu o Mokau ki Runga*

[44] Ms Siciliano appeared in respect of both of these applications. The applicant has separate applications in respect of the northern and southern areas of its rohe. The applicant seeks a hearing in respect of the northern application not before August/September 2025 and the southern application not before April/May 2026. There has been significant engagement with overlapping applicants (Ngāti Tama and Ngā Tini Hapū o Maniapoto). Uncertainty as to funding has adversely impacted progress towards preparation for hearing.

[45] Given the uncertainty as to funding it is not appropriate to allocate a hearing date. The applicants will need to liaise with Te Arawhiti to confirm when funding might be available. This application and those of the overlapping applicants would appear to be suitable for one combined hearing.

*CIV-2017-404-534 Ngāti Tama*

[46] Ms Morrison-Shaw confirms that there is collaboration underway with Mokau ki Runga as well as Ngāti Mutunga (CIV-2017-485-215), Te Atiawa ki Taranaki (CIV-2017-485-310) and Taranaki iwi (CIV-2017-485-812). She indicated that claims to Te Arawhiti for reimbursement for the period July 2023 until early May 2024 remain outstanding. These claims are not ready to be set down and are adjourned to be called again at the 2025 Hamilton CMC.

*CIV-2017-404-575 Ngāti Mahuta ki te Hauaaauru*

[47] This applicant has both a High Court application and Crown engagement application. Their application overlaps other applicants who wish to proceed to hearing. This applicant is supportive of the proposed hearing for Kawhia Harbour and will work with Ngāti Apakura and others to facilitate a proposed hearing. In respect to direct engagement, Ms Siciliano noted that the Crown engagement contact person has left and not been replaced with minimal follow up since. Both tangata whenua and historian evidence preparation is well advanced. Engagement with overlapping applicants continues and uncertainty as to funding is hampering progress. This matter is adjourned for 12 months to be called again at the 2025 Hamilton CMC.

*CIV-2017-485-202 Te Runanganui o Ngāti Hikairo*

[48] Ms Morrison-Shaw reported that there had been delays in the payment of reimbursements for work done prior to June 2024. The application is adjourned for 12 months to be called again at the 2025 Hamilton CMC.

*CIV-2017-419-080 Kawhia Tangata, Aotea Whenua, Whāingaroa Moana*

[49] Progress towards hearing is at an early stage. This applicant's claim overlaps with seven other High Court applicant groups and consultation is yet to commence. Funding uncertainties have stalled progress to hearing. The matter is adjourned for 12 months to be called at the 2025 Hamilton CMC.

*CIV-2017-419-082 Marokopa me Kiritehere*

[50] Preparation of traditional evidence is nearing completion. This applicant's preference is the Crown engagement pathway but no progress has been made over several years on the part of the Crown in engaging with this applicant. This application has only minimal overlap with other applications and efforts are underway to resolve these matters in accordance with tikanga. The anticipated hearing is likely to be of relatively short duration. Ms Loader raised the possibility of a judicial settlement conference. Such a conference might usefully address any outstanding issues relating to overlapping boundaries. If Ms Loader wishes to pursue the matter, she is to file a further memorandum (preferably a joint memorandum signed by all other applicants

with overlapping applications) identifying the issues that are proposed to be the subject of JSC, confirming that all of the proposed participants are prepared to take part in good faith, and indicating an anticipated timeframe for the JSC. The matter is adjourned 12 months to be called again at the 2025 Hamilton CMC.

*CIV-2017-419-083 Whāingaroa Moana Collective*

[51] This applicant has worked to achieve a consensus position amongst various overlapping applicants and to advance all applications to a position where they are ready to be set down for hearing. Te Awarhiti's inability to continue to fund such work has brought progress to a halt. Although timetable directions for matters such as exchange of evidence have been given, because no fixture date has been able to be allocated, the timetable has not yet started to run. The Court is not able to make any further directions other than to adjourn this matter for 12 months to be called at the 2025 Hamilton CMC.

*CIV-2017-485-207 Ngati Apakura*

[52] This applicant's application area covers Kāwhia Harbour and the outer coast from Kahaua Point in the north to Paparoa Point in the south. The applicant was involved as an interested party in the Aotea Harbour proceedings. There is no hearing presently scheduled for Kāwhia Harbour. However, this applicant is close to completion of all evidence-gathering and other necessary preparation and, provided Te Arawhiti is able to guarantee funding, seeks the allocation of a fixture not before late 2025.

[53] This application is adjourned until the 2025 Hamilton CMC but Ms Whiley is to file a memorandum reporting to the Court no later than 7 December 2024 advising as to whether progress has been made in securing funding and confirming whether the allocation of a fixture is still sought.

*CIV-2017-404-526 Nga Tini Hapu o Maniapoto*

[54] Two memoranda were filed in this matter, one by counsel, Mr Hirschfeld and the other by Mr Rangikaiwhiria Kemara, a representative of the applicant group.

Mr Hirschfeld indicated that the applicant would have completed finalisation of pleadings and filing of evidence including reports 26 weeks in advance of any hearing if that was allocated to occur in 2025 or 2026. Counsel were optimistic that some agreement as to overlapping matters might be capable of being achieved.

[55] Mr Kemara appeared in person at the case management conference and had also filed a detailed memorandum. He seeks a hearing of the area between Tirua Point and the middle of the Mokau River. In addition to this applicant, the only other applicant group involved is Mokau Ki Runga. Discussions between the applicant groups are promising and are ongoing.

[56] Tangata Whenua evidence-gathering is well underway, and meetings have been held with historian Tony Walzl with his report being at milestone 4 of 5. This applicant has experienced delay in reimbursement of expenditure as well as uncertainty as to the availability of ongoing funding. One option is to seek civil legal aid funding for participation in the hearing. Any delay in obtaining a hearing is likely to result in some knowledge keepers, whose evidence is critical, passing or being otherwise unavailable.

[57] Mr Kemara sought leave to provide a further update to the Court in December 2024 as to progress following discussions with Mokau ki Runga. No leave is required, and Mr Kemara is able to file a memorandum detailing progress at any time.

[58] This matter will be called again in 12 months' time at the 2025 Hamilton CMC.

*CIV-2017-419-084 Waikato-Tainui*

[59] Mr Ferguson had not filed an updating memorandum but reported verbally that it was assisting a hapū with applications in Whāingaroa and Kāwhia. Counsel is encouraged to undertake the necessary consultation to clarify what role is required of Waikato-Tainui well in advance of any hearing that may be set down.

[60] The matter is adjourned to be called in the 2025 Hamilton CMC.

*Ngaati Whakamarurangi and Ngaati Maahanga*

[61] These Crown engagement applicants are interested parties in the Aotea Harbour and Whāingaroa hearings. They wish to pursue their direct engagement application. No orders are required and the matters they are interested parties in will next be called at the 2025 Hamilton CMC.

*CIV-2017-419-081 Ngāti Te Wehi*

[62] This applicant participated in the Aotea Harbour hearing but has interests which fall outside Aotea Harbour and are yet to be scheduled for hearing. Discussions with overlapping applicants are ongoing but uncertainty as to funding is hampering progress. This matter is adjourned for 12 months to be called at the 2025 Hamilton CMC.

*CIV-2017-485-250 Ngāti Pūkenga*

[63] This applicant is awaiting allocation of the hearing date for the Manaia Harbour hearing. That date cannot be allocated until funding is available. It is uncertain whether a hearing can be allocated after 1 July 2025. Mr Bennion is to file a memorandum no later than 15 September 2024 outlining whether a 2025 hearing remains feasible and if not, proposing an alternative date or period in which a hearing might be scheduled.

[64] This matter will be called again in the 2025 Hamilton CMC.

*Interested parties — Hauraki District Council and Waikato District Council*

[65] Mr Greensmith-West indicated that his clients were primarily interested in the applications for recognition orders that have applied for hearings in the Tauranga and Coromandel Peninsula areas. Protection of Council-owned infrastructure was his clients' main concern.

*Interested party — Attorney-General*

[66] In response to the query by Ms Morrison-Shaw about the sharing of historical reports, Mr Melvin confirmed that the Attorney-General had complied with all



timetable directions. In relation to the query about outstanding reimbursements Mr Melvin advised that the backlog was still being worked through and that payment was anticipated to be completed shortly.

#### **Wellington CMC — 26 July 2024**

**Counsel:** J Ferguson for Te Awa Tupuna and Ngā Hapū me Ngā Uri o Te Iwi o Whanganui  
R M Hāte and J C Carter for Te Atiawa o Te Waka-a-Maui

Interested Party  
G Melvin and F L Hussain for Attorney-General

#### *CIV-2017-485-301 Te Awa Tupuna and Ngā Hapū me Ngā Uri o Te Iwi o Whanganui*

[67] The rohe of this applicant extends to the north and south of the Whanganui River. There are four overlapping applicants, each of whom also are direct engagement applicants. There are another four groups who only have direct engagement applications. Discussions have occurred with some but not all of these groups. The preference of the groups (who have close whakapapa relationships) is to progress matters through direct engagement rather than by way of litigation. Discussion between the groups is ongoing. The applicant also proposes engaging further with Te Arawhiti in an effort to advance the direct engagement process.

[68] The matter is not ready for hearing and is adjourned for 12 months to be called again at the 2025 Wellington Case Management Conference (CMC).

#### *CIV-2017-485-365 Te Atiawa o Te Waka-a-Maui*

[69] Ms Hāte and Mr Carter appeared in person for this applicant. Ms Houra, their former lawyer, filed a memorandum confirming that she was no longer acting for the applicant. The applicants will need to file a new address for service, setting out their full contact details.

[70] It appears that evidence preparation is at a relatively early stage, and likely to be hampered by the availability of funding. This applicant is encouraged to korero with overlapping applicants to see whether there is any possibility for the joint

utilisation of experts. The application is adjourned for 12 months to be called again at the 2025 Nelson CMC.

*Interested party — Attorney-General*

[71] Mr Melvin drew the Courts attention to his memorandum of 25 July 2024 in relation to government's stated intention to amend aspects of the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act). The stated proposals obviously have significant potential ramifications not only for applications that are yet to be set down for hearing but those applications that have been heard and in respect of which there is no decision yet issued. However, until the intimated legislation is passed, the Courts are obliged to act in accordance with the current statute and binding authority.

**Gisborne CMC — 31 July 2024**

**Counsel:** C M Hockly for Rongomaiwahine Iwi  
B Tūpara for Ngāti Oneone  
T N Hauraki and T L Thoms for Ngāti Kurupakiaka, Te Aitanga a Puata  
and Ngāi Taurira

Interested Party  
G L Melvin and F S Hussain for Attorney-General

*CIV-2011-485-794 Rongomaiwahine Iwi*

[72] This applicant has been attempting to progress their application through the Crown Engagement pathway without much success and now seeks a hearing in relation to its application in this Court. It is well advanced in its evidence preparation.

[73] This application is a priority application in terms of s 125 of the Marine and Coastal Area (Takutai Moana) Act 2011 (the Act). S 125 (3)(a) of the Act stipulates that the Court must give priority to such applications ahead of any applications made under the Act.

[74] Now that this applicant seeks a fixture, the Court has an obligation to expedite that fixture.

[75] In the other matters where applicants with priority have sought fixtures the Court has endeavoured to include in the hearing of such applications, those other applicants whose application, either in whole or in part, overlaps with the priority application.

[76] There is one litigation pathway cross-applicant CIV-2017-485-230 (Ngāti Kurupakiaka) and four Crown Engagement overlapping applications: Rongomaipapa Marae (MAC-01-07-0740); Ngā Hapū o Whakakī (MAC-01-09-007); Kahukura Whānau Trust (MAC-01-09-002); and Ngāti Kirituna (MAC-01-09-026).

[77] The applicants in CIV-2017-485-230 are at a relatively early stage in evidence preparation not having yet engaged an historian. However, counsel for that applicant supports the allocation of a fixture and considers that a hearing in the financial year 2025/2026 is viable provided Crown funding is available and evidence preparation is able to be progressed this financial year.

[78] I request that the Registrar arrange a fixture for the hearing of application CIV-2011-485-794 and the overlapping application CIV-2017-495-230 at a convenient date in the 2025/2026 funding year. A nominal hearing length of four weeks duration is to be provided for.

[79] Those applicants who have only direct engagement applications are to be notified of the hearing and will have the opportunity of participating as interested parties should they wish to do so.

[80] Counsel in applications CIV-2011-485-794 and CIV-2017-485-230 are directed to file a memorandum (joint if possible) by 30 September 2024 reporting on engagement with the overlapping applicants, confirming their estimate of the hearing time required and reporting on any discussions or agreements that might have the effect of amending the boundaries of their respective claimed areas to reduce areas of overlap.

*CIV-2017-404-571 Ngāti Oneone*

[81] This applicant would also prefer direct Crown engagement but has been unable to progress that application and is therefore continuing with its preparation for litigation. Professional historical research is underway and tangata whenua evidence gathering has commenced. The application is also engaged in discussions with overlapping applicants. The application is adjourned for 12 months to be called again at the 2025 Gisborne Case Management Conference (CMC).

*CIV-2017-485-230 Ngāti Kurupakiaka*

[82] This applicant has not yet engaged an historian and is effectively unable to do so until funding is guaranteed. It will need to prepare and obtain approval of a budgeted work plan in order for this to happen. It is engaging with a cross applicant.

[83] As discussed above, its application overlaps with that of Rongomaiwahine and its preference is to have the whole of its application heard at the same time as the part that overlaps with Rongomaiwahine. Counsel considers a hearing in 2025/2026 financial year is viable provided funding is confirmed for evidence preparation and that expert witnesses can promptly be engaged.

[84] This applicant is adjourned for 12 months to be called again at the 2025 Gisborne CMC and counsel is requested to liaise urgently with Te Arawhiti re the availability of funding.

*Interested party — Attorney-General*

[85] Mr Melvin confirmed that the Attorney-General had no issue with the allocation of a fixture for the priority Rongomaiwahine application. He also undertook to consult with Te Arawhiti regarding the need for confirmation of funding for the applicant in CIV-2017-485-230 Ngāti Kurupakiaka to be able to participate effectively in the Rongomaiwahine proposed hearing.

## Schedule A — Proposed CMC 2025 times

Tuesday	29/07/2025	WHANGAREI CMC
Wednesday	30/07/2025	AUCKLAND CMC
Thursday	31/07/2025	HAMILTON / NEW PLYMOUTH CMC
Tuesday	5/08/2025	TAURANGA / ROTORUA CMC
Wednesday	6/08/2025	DUNEDIN / NELSON CMC
Thursday	7/08/2025	NAPIER / GISBORNE CMC
Tuesday	12/08/2025	WELLINGTON CMC