

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

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

CIV-2017-485-247, 255, 302

BETWEEN	NGĀ HAPŪ O TOKOMARU ĀKAU Applicant
AND	TE WHĀNAU A RUATAUPARE KI TOKOMARU Applicant
AND	NGĀ WHANAŪ O HAUITI Interested Party
AND	SEAFOOD INDUSTRY REPRESENTATIVES Interested Party
AND	ATTORNEY-GENERAL Interested party

Hearing: 21 and 22 August 2024

Appearances: D Naden for Ngā Hapū
R Siciliano for Te Whānau
Y Moinfar-Yong for Attorney-General
B Scott for Seafood Industry

Minute No.13: 26 August 2024

**MINUTE (No.13) of CULL J
[Stage 2: Wāhi tapu restrictions]**

[1] At the close of the Stage 2 hearing, legal submissions were presented over two days by all parties, addressing the outstanding issues for finalisation of the recognition orders. These included the entity structure for holding CMT, the wāhi tapu sites and their proposed restrictions, and the seaward boundary limit for CMT.

[2] A significant portion of the hearing was directed to the consideration of the seven wāhi tapu sites sought to be recognised and during argument, a legal interpretation issue arose about the meaning of “access” in relation to the prohibition/restrictions on access that are proposed to apply to each of the wāhi tapu sites.

[3] In testing the wording of the prohibitions or restrictions in the draft order, particularly the meaning of the word “access” in ss 26 and 78(2)(b) of MACA, it became clear that each site required more nuanced restrictions than a blanket prohibition on access, as the Act appears to predicate. The evidence called by the applicants also suggested a more nuanced approach.

[4] However, as Mr Naden cautioned, the restrictions were going to be considered and defined for each site, which differ in type and location, by the newly elected Trustees of the Kapuarangi Takutai Moana Trust to inform and guide the public. Mr Naden welcomed an opportunity to confer with the Trustees to refine the draft order accordingly.

[5] To enable the applicants to take instructions to amend the draft order I make the following timetable directions:

- (a) The applicants are to file further submissions in relation to the restrictions/prohibitions of wāhi tapu sites within four weeks of the date of this Minute by 23 September 2024.
- (b) The respondents are to file their replies within a further two weeks, by 7 October 2024.
- (c) The applicants are to file any response within a further two weeks, by 21 October 2024.