

Marine and Coastal Area (Takutai Moana) Act 2011

Applications for rights under the above Act are now before the Court. Some early decisions have indicated the direction the Court is likely to follow in considering these applications. Applications seeking rights related to the Coastal and Marine Areas (Takutai Moana) around Kawau are still being case managed towards hearings. Some hearings seem likely to happen in 2024.

Whilst different applications seek different rights and many are overlapping, the one likely to have the greatest impact is the right to Customary Marine Title. (CMT)

The extent of the impact will depend upon the approach of the CMT holder and the grant does not affect existing Resource Consents.

BUT

If an application needs to be made for a new Resource Consent on the expiry of the term of a resource consent (for example for a jetty) or if you need to apply for a resource consent for an activity within the Coastal and Marine Area (for example to build a sea wall or a new jetty) then you will need the consent of the CMT holder for your application.

The Council cannot override the need for that consent and there is no right of appeal if the CMT holder declines to provide that consent.

18 of the applications that have been made to the High Court have been identified by KIRRA as including claims seeking rights affecting the coastal and marine Areas around Kawau. In regard to those applications, KIRRA has filed notices in the High Court asking that KIRRA be recognized as an interested party. No other action has been taken by the Committee.

Questions:

1. Are there any special features, or background, to our Island, that it may be in our interest, to place before the Court, when the Court is considering the applications that affect our Island?

AND/OR

2. If it was felt that there was, or might be, value in such an evidence gathering exercise, what shape would it take?
How would it be organized?
When would it start?

AND/OR

3. Should KIRRA, seek and obtain a legal opinion from a specialist in this field of law, as to whether or not there are, or may be, steps or actions that KIRRA can take or should consider taking, on behalf of its members, to enable it to participate as an interested party in a meaningful way?

AND/OR

4. Having regard to the limited funding available to it, and likely to be available to it, should it just remain on the sideline and inactive it is at present?