

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE WAIPOUNAMU**

*In the Māori Land Court of New Zealand
Te Waipounamu District*

**A20160001871
AP-20230000022091**

WEHENG <i>Under</i>	Sections 11, 12, 12(1)(b), & 12(1)(e), Protected Objects Act 1975
MŌ TE TAKE <i>In the matter of</i>	Worked wood – determination of ownership of taonga tūturu found at Waikato Bay, Chatham Islands
I WAENGA I A <i>Between</i>	CHIEF EXECUTIVE OF THE MINISTRY OF CULTURE AND HERITAGE Te kaitono <i>Applicant</i>
ME <i>And</i>	HOKOTEHI MORIORI TRUST, IMI MORIORI SETTLEMENT TRUST & NGĀTI MUTUNGA O WHAREKAURI IWI TRUST Ngā kaiurupare <i>Respondents</i>

Kōtitanga: On the papers
Hearing

Whakataunga: 2 June 2026
Judgment date

TE WHAKATAUNGA A KAIWHAKAWĀ M J DOOGAN
Judgment of Judge M J Doogan

Hei timatanga kōrero

Introduction

[1] This application has been before the Court since 2016. I am pleased that I can now bring it to conclusion and make orders by consent.

[2] In February 2014, a tourist visiting the Chatham Islands found a piece of worked wood with a row of deep saw tooth like notches. The taonga has an angled hole drilled at the broadest end and is approximately 30cm long and 8cm wide at the widest point.

[3] The taonga was taken to the Chatham Islands museum. They notified the Ministry of Culture and Heritage in June 2014. The find is a taonga tūturu within the meaning of the Protected Objects Act 1975. The Ministry subsequently notified the find and received the following claims of ownership:

- Hokotehi Moriori Trust
- Ngāti Mutunga o Wharekauri Iwi Trust
- Chatham Islands Museum

[4] In the absence of agreement between the parties over the respective claims for ownership, the Ministry submitted an application to the Court in February 2016. The Chief Executive sought orders as follows:¹

12.1 The Chief Executive respectfully applies for an order determining the ownership of the taonga tūturu, as between Hokotehi Moriori Trust, Ngāti Mutunga o Wharekauri Iwi Trust and Chatham Islands Museum and Cultural Heritage Charitable Trust, pursuant to section 12(1)(b) of the Act; and

12.2 Following the determination pursuant to section 12(1)(b) of the Act, the Chief Executive respectfully applies for an order vesting the taonga tūturu in trustees for safekeeping and preservation pursuant to section 12(1)(e) of the Act.

¹ Memorandum of Counsel for Chief Executive of Ministry of Culture and Heritage, dated 10 August 2018.

[5] In a letter dated 10 September 2018, the museum notified the Court that they no longer wish to continue with their ownership claim.

[6] This application has had a protracted history which I need not traverse here. The competing claims for ownership were referred to mediation and in early 2020 a set of protocols were agreed between representatives of Ngāti Mutunga and Hokotehi Moriori Trust. The matter then came back before the Court on several occasions and was adjourned so that the parties could implement the agreed protocols.²

[7] The application most recently came before me at a sitting of the Court at Waitangi, Chatham Islands on the 15th of October 2025. I adjourned the application with the direction that parties were to file an updated memorandum on progress of discussions by the 19th of November 2025.

[8] The Court did not receive an updating memoranda or joint memorandum but on the 11th of December 2025, the Chair of the Ngāti Mutunga o Wharekauri Iwi Trust (Monique Croon) wrote to the Court as follows:

Tēnā koutou

RE: TAONGA WOODEN ARTEFACT – HOKOTEHI MORIORI TRUST CLAIM

Ngāti Mutunga o Wharekauri Iwi Trust has reviewed the claim submitted by Hokotehi Moriori Trust to the Ministry for Culture and Heritage (dated 21 July 2014) for ownership of a carved wooden taonga found near Te Hiti, between Moutapu and Waikato Point, on the shores of Te Whānga.

Having considered the information presented in their submission, including the archaeological, historical, and cultural assessments supporting a Moriori origin, we acknowledge that the claim is credible and presented in good faith.

On balance, and as a gesture of goodwill and rangatiratanga, Ngāti Mutunga o Wharekauri Iwi Trust is prepared to accept the claim of ownership by Hokotehi Moriori Trust.

² 99 Te Waipounamu MB 213–224 (99 TWP 213-224); 91 Te Waipounamu MB 169–183 (91 TWP 169-183); and 79 Te Waipounamu MB 276–279 (79 TWP 276-279).

Our acceptance is offered on the clear understanding that should new information or evidence come to light that materially recontextualises the origins of this taonga, Moriori will be open to revisiting ownership discussions with Ngāti Mutunga o Wharekauri. In that event, both iwi would work collaboratively, in good faith, to ensure the taonga's history and stewardship are honoured appropriately.

Accordingly, Ngāti Mutunga o Wharekauri Iwi Trust puts aside any current or future claim to this taonga, while reserving the right for reconsideration if substantial new evidence emerges.

[9] Following receipt of that correspondence, I issued directions on the 17th of April 2026 noting that on the basis of the position recorded in the letter and subject to any further submissions from the parties or the Ministry, it would seem open to the Court to make orders from Chambers by consent. I accordingly asked the parties to confirm on or before Friday 22nd of May 2026 whether the Court could now proceed to dispose of the matter in Chambers and whether or not the parties wish to make any further submissions as to the form of the order or whether any party wishes to be heard before orders are made.³

[10] By joint memorandum dated 22nd of May 2026, the respective chairs of the Moriori Imi Settlement Trust and the Hokotehi Moriori Trust confirmed support for the Court making orders in Chambers and noting that they had no further submissions to make and do not wish to be heard. While no further response has been received from Ngāti Mutunga or from the Ministry, I am satisfied that I can now conclude the application on the basis of the orders I make at the end of this judgement.

Te ture

The law

[11] The Protected Objects Act 1975 makes provisions for determination of ownership of taonga tūturu.

³ 104 Te Waipounamu MB 92–94 (104 TWP 92–94).

[12] Section 11(1) of the Act provides that any taonga tūturu found anywhere in New Zealand from the commencement of the Act (1976) are deemed to be prima facie the property of the Crown. However s 11(2) goes on to provide:

Notwithstanding the provisions of subsection (1), if actual or traditional ownership, rightful possession, or custody of any taonga tūturu referred to in that subsection is subsequently claimed, the chief executive or any person who may have any right, title, estate, or interest in any such taonga tūturu may apply to the Maori Land Court to exercise any part of its jurisdiction under section 12: provided that no right, title, estate, or interest in any such taonga tūturu shall exist or be deemed to exist solely by virtue of ownership or occupation of the land from which the taonga tūturu was found or recovered.

[13] Section 11(8) provides:

For the purposes of this section, **ownership**, whether actual or traditional, includes (but is not limited to) collective or joint ownership.

[14] As there were competing claims to the taonga, the matter was referred to the Court for determination pursuant to s 12 of the Act.

[15] Sections 12(1)(b) and (e) are of particular relevance. These provisions provide the Court with jurisdiction:

(b) to hear and determine as between any persons applying under subsection (2) of the said section 11 any claim, whether at law or in equity, to the actual or traditional ownership, rightful possession, or custody of any taonga tūturu, or to any right, title, estate, or interest therein:
[...]

(e) to vest in any person or persons as trustee or trustees any taonga tūturu for safekeeping and preservation:

[16] In a previous decision concerning taonga tūturu found in Kerikeri, I observed:⁴

⁴ 106 Taitokerau MB 210-236 (106 TTK 210-236).

[67] The Act confers jurisdiction on the Court to hear and determine competing claims to traditional ownership, rightful possession, or custody of taonga or any right, title, estate, or interest in taonga.

[68] Section 12(1)(b) sets out a descending hierarchy of interest. Below actual or traditional ownership comes rightful possession or custody. Below that is a claim to any right, title, estate or interest. Whilst it could be said that the drafting is circular in that a legal or equitable right, title, estate or interest could equate to actual or traditional ownership and/or rightful possession or custody, in my view the intention is to provide the Court with discretion to recognise gradations of interest depending upon what the evidence shows.

[17] I also adopt and apply the distinction noted by Judge Ambler between ‘actual’ and ‘traditional’ ownership. Judge Ambler concluded that a finding of actual ownership could only be made where it was clear the taonga was owned by a particular person or persons. Traditional ownership on the other hand could be found where the evidence of actual ownership was not clear. In such a case, the Court can be called upon to determine within whose rohe the taonga was found and therefore which hapū held traditional ownership.⁵

[18] In this instance, there is evidence before the Court that this taonga has characteristics associated with Moriori carving techniques. Ngāti Mutunga and affiliated hapū arrived on the Chatham’s from 1835. Moriori occupation predates their arrival by several centuries and Ngāti Mutunga have accepted that there is credible archaeological, historical and cultural assessments supporting the Moriori origin of this taonga. Accordingly, they no longer contest the Moriori claim to ownership.

[19] I concur with that assessment and acknowledge Ngāti Mutunga for the constructive approach they have adopted in this case, arising as it does in the context of litigation in other jurisdictions which has strained relationships between Ngāti Mutunga and Moriori.

[20] The application for Moriori interests was lodged by the Hokotehi Moriori Trust . When the matter came before me in October 2024, I was advised that the Moriori Imi Settlement Trust was also acting on behalf of Moriori interests, and for the purposes of this

⁵ 17 Taitokerau MB 277-284 (17 TTK 277-284).

proceeding, I granted both trusts leave to appear on behalf of Moriori interests. I have been advised that there may in time be a consolidation of representation of Moriori interests into one entity. But for present purposes and for the purposes of these orders, I shall proceed on the basis that the original applicant, the Hokotehi Moriori Trust, should be declared the traditional owner and also be the subject of any vesting order.

[21] The trust deed for the Hokotehi Moriori Trust has been filed. The Trust Deed provides that the trustees have the power to acquire and dispose of personal property and the Hokotehi Moriori Trust is a registered collector of taonga tūturu pursuant to s 14(4) of the Act. The Court has also been advised by Mr Maui Solomon that:

Hokotehi has safe storage facilities in place for holding taonga. Hokotehi is also an Imi partner at Te Papa Tongarewa and has been entrusted with the care of a loan exhibition at Kōpinga Marae in the past.

[22] Finally, I note that the Court has not been advised that the taonga requires specialist conservation work and I proceed on the basis that I am now able to make orders determining both traditional ownership and a consequent vesting order.

Ngā ota

Orders

[23] Pursuant to s 12(1)(b) of the Protected Objects Act 1975, Imi Moriori are the traditional owners of the taonga tūturu being a piece of worked wood found at Waikato Bay, Chatham Islands on the 28th of February 2014; and

[24] Pursuant to s 12(1)(e), the Hokotehi Moriori Trust are entitled to custody of the taonga tūturu and pursuant to s 12(1)(e) vesting the taonga in the Hokotehi Moriori Trust as trustees for safe keeping and preservation of the taonga.

[25] There is no order as to costs.

I whakapuaki i te wā 12pm i Te Whanganui-a-Tara, i te 2nd ngā rā o Pipiri i te tau 2026.

Pronounced at 12pm in Wellington, on this 2nd day of June 2026.

M J Doogan

JUDGE