

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

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

**CIV-2022-485-650**

BETWEEN	TE RŪNANGA O NGĀI TAHU Plaintiff
AND	TE OHU KAI MOANA TRUSTEE LTD First Defendant
AND	MINISTER FOR OCEANS AND FISHERIES Second Defendant

Hearing: 7 November 2022 (via VMR)

Counsel: J Every-Palmer KC for Plaintiff  
V Casey KC for First Defendant  
N Anderson and J Watson for Second Defendant

Minute: 7 November 2022

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**MINUTE OF ISAC J**

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[1] These recently filed proceedings<sup>1</sup> seek judicial review of decisions of the first respondent, Te Ohu Kai Moana Trustee Ltd, and related declaratory relief against the Minister for Oceans and Fisheries. Accompanying the statement of claim is an interlocutory application seeking an urgent fixture. The applicant contends the proceeding is urgent because the Minister intends to introduce a Bill to Parliament later this month on the same terms as an “exposure draft” of proposed amendment legislation to the Māori Fisheries Act 2004. If the amendment is passed into law in that form the applicant considers its proceeding would be rendered nugatory.

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<sup>1</sup> The statement of claim is dated 1 November 2022.

[2] Counsel for the second respondent submits urgency is not required. The Minister is in the process of receiving advice from officials which is expected to confirm that the Minister is unlikely to recommend to Cabinet the introduction to Parliament of that part of the proposed legislation which is the focus of this proceeding.

[3] All parties agree that the application for urgency does not require immediate determination because the question of urgency may be capable of resolution following ongoing discussion between the parties and their counsel. The only point of difference relates to the period of time each says is necessary to complete that dialogue.

[4] For the applicant, Mr Every-Palmer KC submits that three days is adequate and seeks to have the application for urgency brought on for hearing on 10 November 2022 if matters have not been resolved by that date. For the second respondent, Mr Anderson submits that the argument in favour of urgency is misconceived in light of indications already provided by the Minister, and proposes a two-week adjournment.

[5] Ms Casey KC for the first respondent was concerned to ensure that other iwi affected by the applicant's proceeding are served and afforded sufficient time to enable them to have an opportunity to be heard. She expressed reservations about the impact of urgency given the complexity of the issues and the ability to accommodate the issues and likely interests within a one-day fixture (as sought by the applicant).

[6] Having heard from counsel I make the following directions:

- (a) the application for urgency is adjourned to the Judicial Chambers List on 14 November 2022. By then it is hoped that sufficient assurance can be provided to the applicant to avoid the need to determine the application for urgency. Leave is reserved to the applicant to seek an urgent hearing of the application should the need arise; and

- (b) the Registrar is to investigate the availability of a three-day judicial review hearing before the end of the year and should advise counsel and the Court of the position.

[7] The applicant should be aware that judicial resources at this time of year are already at capacity, and that the ability of the Court to accommodate an urgent hearing is limited.

[8] No other orders are currently required.

**Isac J**