

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

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

CIV-2022-485-650

UNDER THE	Judicial Review Procedure Act 2016 and the Declaratory Judgments Act 1908
BETWEEN	TE RŪNUNGA O NGĀI TAHU Plaintiff
AND	TE OHU KAI MOANA TRUSTEE LIMITED First Defendant
AND	MINISTER FOR OCEANS AND FISHERIES Second Defendant

Hearing: 14 November 2022

Appearances: J D Every-Palmer KC, J W J Graham and K C Grant for the
Applicant
V E Casey KC for the First Respondent
N C Anderson and J B Watson for the Second Respondent

Minute: 14 November 2022

MINUTE OF PALMER J

[1] At today's call of these proceedings in the Judge's Chambers List, it was agreed that an urgent hearing this year is not required. That is on the basis of the evidence provided that the Minister for Oceans and Fisheries has agreed to recommend to Cabinet that an amendment bill be introduced to distribute the surplus funds of Te Ohu Kai Moana Trustee Ltd on a population basis.

Hearing date

[2] Ngāi Tahu is concerned about whether the Minister's recommendation will prevail. Accordingly, Dr Every-Palmer KC seeks timetabling of a hearing in March 2023 with leave to bring the application for urgency on with 48 hours' notice. The Minister would not oppose a March 2023 hearing. Ms Casey KC, for Te Ohu, advises that it is concerned about the length of time that mandated iwi organisations are given to decide whether to apply to be involved in the proceedings. If their ability to do that is compromised, Te Ohu reserves its position on the hearing date.

[3] Views also differ about how long might be required for a hearing; the estimates being between one and three days, depending on the issues that remain outstanding.

[4] I indicated at today's call that a two-day hearing is available on 6 and 7 March 2023. I invited counsel to inquire with the Registry when a three-day fixture might be available. However, further inquiry with the Registry suggests the 6 and 7 March 2023 dates could be turned into a three-day hearing.

[5] I request counsel to advise the Registry by **5 pm Tuesday 15 November 2022** whether there is any problem in setting down 6–8 March 2023 for the substantive hearing of these proceedings. The Registry will confirm the setting down accordingly. I reserve leave for the parties to bring on the application for urgency on 48 hours' notice.

Request for media access

[6] Jem Traylen, for BusinessDesk, has requested access to the statement of claim, statement of defence and any minutes, judgments or directions in these proceedings. By consent, I agree to the request, on the condition that the documents are not provided until after Monday 21 November 2022. This is to allow notification of the mandated iwi organisations and others about what is happening. This request does not extend to evidence filed.

Timetabling

[7] By consent, I make the following timetabling orders:

- (a) By **5 pm Wednesday 16 November 2022**, the plaintiff and/or the first defendant will notify other mandated iwi organisations and provide them with copies of the statement of claim and this minute.
- (b) By **4 pm Friday 2 December 2022**, the defendants will file and serve statements of defence.
- (c) **By 4 pm Friday 9 December 2022:**
 - (i) mandated iwi organisations will indicate by memorandum whether they wish to be heard in these proceedings, and in what capacity.
 - (ii) the plaintiff will file and serve its reply and affidavits.
 - (iii) the parties will file a joint memorandum on the remaining steps to be timetabled.
- (d) On **Monday 12 December 2022**, a teleconference will be convened before the Duty Judge to consider requests to be heard and timetabling.



Palmer J

Counsel/Solicitors
J D Every-Palmer KC, Wellington
Chapman Tripp, Auckland
V E Casey KC, Barrister, Wellington
Crown Law Office, Wellington