

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

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

CIV-2026-485-218

UNDER The Judicial Review Procedure Act 2016 and Part 30 of the High Court Rules

IN THE MATTER OF An application for Judicial Review of an exercise of statutory powers under the Local Government Act 2002, the Resource Management Act 1991 and the Local Government Official Information and Meetings Act 1987

BETWEEN **COASTAL RATEPAYERS UNITED INCORPORATED** being a duly incorporated society
Applicant

AND **KAPITI COAST DISTRICT COUNCIL** being a territorial authority under the Local Government Act 2002
Respondent

**MEMORANDUM OF COUNSEL FOR APPLICANT IN SUPPORT OF
INTERLOCUTORY APPLICATION WITHOUT NOTICE FOR INTERIM
ORDERS**

Dated : 8 May 2026

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May it please the Court:

1. This application without notice for interim orders is brought in the context of a proceeding for judicial review of the exercise of statutory powers by the respondent ("the Council") for the assessment of risk, identification and management of coastal hazards in the Council's district plan. A consequence of that process and exercise of powers is the Council's statutory ability to place reports on land information memoranda (i.e. LIMs) for affected properties.
2. The background to the issues as between the applicant ("CRU") and the Council goes back over a decade, although it is unnecessary for the purposes of this application to set that out. But what is material and is relevant to the grounds for review is that there have been agreements between CRU and the Council regarding the process of exercise of these statutory powers in particular consultation with and involvement of CRU.
3. In that context CRU has brought this application for review on the grounds of breaches of legitimate expectations (see first grounds of review at Statement of Claim para 20) and breach of consultation obligations (see second ground of review at Statement of Claim paras 21-24.)
4. CRU's immediate concern is what has happened and what is apparently now intended by the Council in the agreed process for presentation of a report by what was supposed to have been an independent panel of experts appointed by both parties to identify and address coastal hazards. The members of the panel were appointed jointly by the parties on July 2025, and the panel produced a report in October 2025. Following a discussion between the parties on a range of aspects both parties

considered to be shortcomings in the report, the Council decided to treat the report as a draft, and indicated to CRU that a joint presentation of concerns should be prepared for the panel. Subsequently CRU learned of a significant undeclared history of association on the part of the panel's chair, who was the Council's nomination to the panel, that is contrary to what was agreed. CRU says that if it had known of that association it would have rejected the nomination, as it was entitled to do.

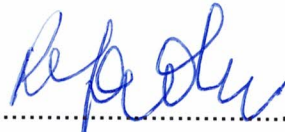
5. In these proceedings CRU has raised these concerns along with deficiencies in the panel report thus far where particular matters that were identified by the parties for assessment have not been addressed by the panel.
6. The substantive proceedings seek orders effectively pausing the processing of the panel reporting until those matters have been addressed.
7. The particular aspect that has triggered the necessity of this application without notice for interim orders is the advice of Council management that the panel report in its current form and with its current authorship will be presented to the Council this month and that at that point it will be included in the relevant LIM's (refer first affidavit of Ms Padamsey paragraph 71 and her subsequent affidavit.)
8. Counsel should also advise to the court that CRU and its solicitor have conveyed to the Council that unless some sort of satisfactory assurance could be given to pause that process pending a determination of the court, CRU intended to file these proceedings and make application for interim orders.

9. Counsel has discussed the situation with counsel for the Council who has indicated that an application for interim orders will be opposed, although there have been discussions regarding an appropriate undertaking that could be given that would short circuit the need for interim orders – or at least short circuit the need for interim orders prior to a contested hearing regarding interim orders within, say, several weeks. At this point the parties have not been able to agree a form of undertaking.

10. The need for a without notice application arises from the fact that while disagreement over a form of undertaking continues, CRU, or a least numbers of its members, have properties that could be negatively affected should the Council proceed to process the panel’s report this month. CRU is also concerned that a staff briefing to the elected Councillors (as the ultimate decision-makers) on a completed panel report, including the provision of that report, will be significantly prejudicial if CRU’s application for judicial review succeeds but the utility of any relief is compromised by such a briefing and presentation.

11. Counsel for CRU has nonetheless ensured that counsel for the Council has been kept informed of the present steps and a copy of this application and the accompanying papers have been copied to him with the usual “Pickwick” invitation.

Dated: 8 May 2026


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R.J.B. Fowler KC
Counsel for applicant