

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

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

CIV-

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

STATEMENT OF CLAIM SEEKING JUDICIAL REVIEW

Dated : 1 May 2026

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The applicant by its solicitor says:

FOR A FIRST GROUND OF REVIEW (BREACH OF LEGITIMATE EXPECTATION).

The parties

1. Coastal Ratepayers United Limited ("CRU") is a duly incorporated society based on the Kapiti Coast and:
 - 1.1. It currently has over 500 members;
 - 1.2. Most of its members own properties that are affected by initiatives for management of coastal hazards in the Kapiti District.

2. Kapiti Coast District Council ("the council") is a territorial authority under the Local Government Act 2002.

The statutory decision – making and consultation the subject of this review application for judicial review

3. Pursuant to the Local Government Act 2002 ("LGA"), the Resource Management Act 1991("RMA") and the Local Government Official Information and Meetings Act 1987 ("LGOIMA") the council exercises statutory powers within the meaning of s.5 of the Judicial Review Procedure Act 2016:
 - 3.1. To identify and manage coastal hazards in its district in accordance with the RMA and the New Zealand Coastal Policy Statement ("NZCPS") and particularly Policy 24 of NZCPS; and
 - 3.2. To determine under ss.44A-D of LGOIMA the information that will be included in land information memoranda ("LIMs") for properties in its district.

4. When the council is required to consult any person it must do so in accordance with the requirements of ss.82-82A LGA.

Background

5. There have been differences between the parties as to the appropriate assessment of risk, including probability, for the identification and management of coastal hazards in the council's district plan. and what assessment reports should be included in LIM's for properties in the district.

The agreements between the parties that found the legitimate expectations

6. In 2018 CRU brought an appeal to the Environment Court against certain parts of the Council's decisions on the proposed District Plan concerning coastal hazard management under proceeding ENV-2018-WLG-000010.

7. In December 2018 in consideration for withdrawing Point 8 in the Notice of Appeal referred to in paragraph 6, the parties agreed in writing certain terms as to how the process of addressing coastal hazards would be addressed in the future.

8. Pursuant to that agreement:

- 8.1. Clause 10 provided:

"(The Council) will engage with and involve the community, including CRU, early in the process of addressing coastal hazards, including

.....

(b) considering the nature and extent of the coastal hazard science that may be required;"

.....

8.2. Clause 12 provided:

"(The council) will consult with the community in relation to the proposed management responses to the coastal hazard(s) problems identified as a part of Schedule 1 RMA process and in accordance with the principles of consultation set out in s.22 of the Local Authority Act 2002".

8.3. Clause 17 provided:

"If any dispute as to the terms, implementation or interpretation or application of this agreement or any part of it arises:

(a) The parties shall enter into negotiations in good faith to resolve such disputes;

(b) If the dispute is not resolved within 14 days of the date on which the parties begin their negotiations, the parties shall submit their dispute to mediation to be held within a further 14 days, and if unsuccessful then to arbitration by an independent arbitrator appointed jointly by the parties."

8.4. Clause 18 provided:

"Nothing in this agreement derogates from:

(a) The rights of the parties to seek any legal remedy that may be available to them under law".

9. As a result of ongoing differences between the parties regarding the coastal risk assessment and what would be included in relevant LIM's, CRU gave notice to the Council of a dispute in terms of Clause 17 of the agreement.

10. For the purpose of facilitating agreement on the science to be used for future plan change work, in early 2025 the parties agreed that a panel of independent experts would be appointed in a collaborative process to review the science reports commissioned by the parties against criteria defined in the panel's terms of reference, and to prepare a report advising which of the science reports complied with all of the criteria.
11. The terms of reference for the panel also required the panel to consider the Department of Conservation Guidelines on New Zealand Coastal Policy Statement ("NZCPS") Policy 24.
12. It was a term of the agreement referred to in paragraph 10 that each expert would be:
 - 12.1. Independent of the parties; and
 - 12.2. Not connected with the authors of the previous science reports commissioned by the parties;and that both parties had to agree on the composition of the panel.

Subsequent Events

13. The Council nominated Dr Sharri Gallop as its coastal scientist and CRU subsequently agreed to her appointment.
14. The panel report was released in November 2025 and supplied to CRU for review.
15. The panel report:
 - 15.1. did not consider the DoC guidelines on NZCPS Policy 24;

- 15.2. briefly rejected the CRU commissioned report without any assessment against the criteria;
 - 15.3. referred to further information being obtained from a number of sources, including the council and the firm from which the Council had commissioned its reports referred to in paragraph 12.2 above, but did not identify what was being asked, what information had been provided and what significance it had;
 - 15.4. did not review or conduct any risk assessment as required by the terms of reference;
 - 15.5. endorsed two reports commissioned by the council as coastal hazards risk assessments when those reports said they were not.
16. In early 2026 CRU ascertained three matters that had not been disclosed to it:
- 16.1. That Dr Gallop, who chaired the panel, had undertaken several projects with Jacobs who was one of the previously commissioned science reporting consultancies referred to in para 12.2;
 - 16.2. That her firm, Pattle Delamore, has a close relationship with Jacobs;
- and CRU raised those matters with the Council and advised that had they been disclosed CRU would have rejected Dr Gallop's nomination.
17. The council stated it would investigate CRU's concerns, but has not informed CRU as to whether its concerns, including those relating to Dr Gallop, had been referred to the panel.

18. CRU has requested that the panel reporting process be paused until the matters referred to in paragraph 16 have been investigated and addressed.
19. The Council has declined to halt the panel process and intends to consider the panel's report at a full Council meeting in May 2026 and its inclusion in LIM reports for affected properties.

Grounds of breaches of legitimate expectations

20. The Council is in breach of CRU's legitimate expectations in the following respects:
 - 20.1. Nominating and appointing Dr Gallop to the panel when she was not independent of the parties and was connected with the authors of the previously commissioned scientist consultancies;
 - 20.2. Alternatively, if Dr Gallop's previous associations were disclosed to or known to the Council, the Council failed to disclose that information to CRU whether as a good faith obligation or otherwise;
 - 20.3. The panel report has been received by the Council and is being finalised and that report is to be tabled for consideration by full Council when it does not comply with the terms of reference provided to the panel and does not consider the DoC guidelines on NZCPS Policy 24;
 - 20.4. The Council has failed to disclose the sources of the further information being sought by the panel.

Relief

The applicant (CRU) therefore seeks:

- (a) A declaration that the council has breached CRU's legitimate expectations regarding the process of addressing coastal hazards;
- (b) An injunction or order by way of mandamus directing the Council to halt the process of further consideration of the panel report until the breaches of CRU's legitimate expectations are addressed;
- (c) An injunction preventing the Council from proceeding to include the final report in the relevant LIMs;
- (d) An order quashing the nomination and appointment of Dr Gallop as a panel member;
- (e) An order directing the Council to reconstitute the panel and to make any further decision in accordance with the Court's directions;
- (f) Such other relief as the Court thinks fit;
- (g) Costs.

FOR A SECOND GROUND OF REVIEW (BREACH OF CONSULTATION OBLIGATIONS)

- 21. It repeats paragraphs 1-20 hereof.
- 22. The Council's obligations of consultation within the meaning of ss.82-82A of the LGA arise on account of the 2018 agreement referred to in paragraphs 7;
- 23. Those consultation obligations in this instance included the following:
 - 23.1. To enable CRU to make a presentation at a full meeting of Council to address differences that have arisen regarding the agreement referred in para 7 above pursuant to a further agreement permitting such an

opportunity agreed between the parties in 2025 since it will be that meeting that will make decisions on the use of the report and the propriety of the process;

- 23.2. To provide full and fair particulars of the scientist appointed to the panel relevant to the two conditions referred to in paragraph 12 above;
 - 23.3. To ensure that meaningful and complete information was provided to CRU concerning the further unidentified information that the panel said it was obtaining following its draft report.
24. In breach of such consultation obligations (including good faith obligations) the Council:
- 24.1. Declined to give CRU the adequate opportunity to address the full Council on the differences that had arisen regarding the 2018 agreement.
 - 24.2. Failed to give full and fair particulars of the scientist it nominated to the panel with regard to the conditions in paragraph 12 above;
 - 24.3. Refused to provide any identification of the further information the panel had sought and/or received.

Relief

25. Therefore the applicant seeks:
- (a) an injunction or order by way of mandamus directing the Council to halt the process of further consideration of the panel report pending the remedy of the breaches referred to in paragraph 24;
 - (b) an order directing the council to give CRU an adequate opportunity to address the full Council or the relevant decision-making committee on the differences that have

arisen between the parties regarding the 2018 agreement;

- (c) an injunction preventing the council from proceeding to include the final report in the relevant LIMs until the matters referred to in paragraphs 24.2 and 24.3 above are addressed.
- (d) such other relief as the court thinks fit;
- (e) costs.

This document is filed by Philip Christopher Mitchell of Mitchell Law, solicitor for the applicant. The address for service of the applicant is at 99 Tutere Street, Waikanae Beach.

Documents for the applicant may be posted to that address, or emailed to chris@mitchelllaw.co.nz and copied to counsel at email@richardfowler.co.nz