

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 85/2011  
[2011] NZSC 118**

BETWEEN	OTEHEI BAY HOLDINGS LIMITED First Appellant
AND	EXPLORE NZ (2004) LIMITED Second Appellant
AND	FULLERS BAY OF ISLANDS LIMITED First Respondent
AND	INTERCITY GROUP (NZ) LIMITED Second Respondent
AND	THE MINISTER OF CONSERVATION Third Respondent

Court: Tipping, McGrath and William Young JJ

Counsel: S J Katz and D J Minhinnick for Appellants  
A R Galbraith QC and J D McBride for First and Second Respondents  
K G Stephen and J Andrew for Third Respondent

Judgment: 29 September 2011

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal is granted.**

**B The approved grounds of appeal are:**

- (i) Was the lease at Otehei Bay brought within the jurisdiction of the Reserves and Domains Act 1953 upon the Crown's acquisition of Urupukapuka Island as a recreation reserve in 1970?**

- (ii) Does s 59A of the Reserves Act 1977, as inserted by the Reserves Amendment Act 1996, apply to the lease at Otehei Bay?**

**C The approved grounds are intended to comprehend the sub-issues referred to in the submissions of the third respondent dated 15 September, namely:**

- (i) Is the lease a perpetually renewable lease which has been extended since its creation, or is it one where a new lease has been entered into each time it has been extended or renewed?**
- (ii) What is the effect of the 10 to 15 year period where the lease may not have been renewed by the parties?**

Solicitors:  
Russell McVeagh, Auckland for Appellants  
Bell Gully, Auckland for First and Second Respondents  
Crown Law Office, Wellington for Third Respondent