IN THE HIGH COURT OF NEW ZEALAND
NAPIER REGISTRY

I TE KŌTI MATUA O AOTEAROA
AHURIRI ROHE

CIV-2024-441-000027
[2024] NZHC 1313

UNDER	the Judicial Review Procedure Act 2016; the NZ Bill of Rights Act 1990; and the Declaratory Judgments Act 1908
IN THE MATTER	of an application for Judicial Review of a decision of the Hastings District Council to commence fluoridating Hastings water supply
BETWEEN	FLUORIDE ACTION NETWORK (NZ) INCORPORATED First Applicant
	NZDSOS INC Second Applicant
AND	HASTINGS DISTRICT COUNCIL First Respondent
	DIRECTOR-GENERAL OF HEALTH Second Respondent
	ATTORNEY-GENERAL Third Respondent

Hearing:	16 May 2024
Counsel:	S J Grey for Applicants H P Harwood and S B Hart for First Respondent J N E Varuhas and R E R Gavey for Second and Third Respondents
Judgment:	24 May 2024 at 9.30 am

JUDGMENT OF LA HOOD J

Introduction

[1] On 9 April 2024, the Fluoride Action Network (NZ) Incorporated (FAN), also known as Fluoride Free New Zealand, and New Zealand Doctors Speaking Out with Science Incorporated (NZDSOS) applied for an urgent injunction to halt the introduction of fluoride to the urban water supply of Hastings.

[2] McHerron J convened telephone conferences on 10 and 15 April 2024, determining the matter would proceed on notice, and the Director-General of Health (the Director-General) and the Attorney-General would be joined by consent.[1] The parties agreed to move to an expedited substantive hearing for judicial review.[2]

[3] In 2022, the Director-General directed Hastings District Council (the Council), along with 13 other local authorities, to add fluoride to its water supply (the Direction). The Council recommenced fluoridation on 8 April 2024 in accordance with the Direction.

Summary of decision

[4] In summary, I consider the application for judicial review should be dismissed because:

(a) It was not unlawful for the Council to comply with a valid Direction simply because it is being reconsidered due to an error of law. The legal effect of Radich J's decision is that acting upon the Direction is not presumptively unlawful.

(b) Neither s 6 of the New Zealand Bill of Rights Act 1990 (Bill of Rights), or the principle of legality, require the legislation to be interpreted in a way that gives the Council a discretion whether to comply with the Direction.

---

1 *Fluoride Action Network (NZ) Incorporated v Hastings District Council* HC Wellington CIV-2024-441-27, 10 April 2024 (Minute No 1 of McHerron J) at [3].

2 *Fluoride Action Network (NZ) Incorporated v Hastings District Council* HC Wellington CIV-2024-441-27, 15 April 2024 (Minute No 2 of McHerron J) at [2].

(c) There is ample evidence to provide a rational basis for both the Council's decision not to seek an extension of the deadline to comply with the Direction, and for the Director-General to not offer one.

The parties

The applicants

[5] FAN is an organisation aimed at ending water fluoridation in New Zealand. FAN believes fluoridation does not work, is not safe, and takes away the right to refuse medical treatment. NZDSOS is a collective of health practitioners who share concerns about the COVID-19 vaccine and water fluoridation, with a focus on freedom, informed consent, and restoring national sovereignty.

The respondents

[6] As already mentioned, on 27 July 2022, the Director-General instructed the Council, along with 13 other local authorities, to add fluoride to its water supply and the Council recommenced fluoridation on 8 April 2024 in accordance with the Direction. The Council had been fluoridating its water supply for decades prior to the widely publicised 2016 campylobacter outbreak in the district. A non-fluoridated water supply has been made available in the district.

Background

[7] The legality of water fluoridation has been thoroughly argued at all levels of the senior courts in Aotearoa New Zealand, with challenges brought by New Health New Zealand Incorporated (New Health).[3] In *New Health New Zealand Inc v Wellington Water Ltd,* Cooke J summarised the position of the Supreme Court in their 2018 decision:[4]

> In short, the majority concluded that the decision to fluoridate was empowered by legislation, and that the right in s 11 did not constrain the exercise of that

---

3 See *New Health New Zealand Inc v South Taranaki District Council* [2014] NZHC 395, [2014] 2 NZLR 834 [High Court judgment]; *New Health New Zealand Inc v South Taranaki District Council* [2016] NZCA 462, [2017] 2 NZLR 13 [Court of Appeal judgment]; *New Health New Zealand Inc v South Taranaki District Council* [2018] NZSC 59, [2018] 1 NZLR 948 [Supreme Court judgment].

4 *New Health New Zealand Inc v Wellington Water Ltd* [2022] NZHC 2389 at [13].

> power … [the majority found] such fluoridation of drinking water is lawful after a full consideration of the applicant's arguments and evidence on all issues.

[8] Against this background, in December 2021, the Health (Fluoridation of Drinking Water) Amendment Act 2021 (the Act) came into effect. This amending legislation relevantly provided that the Director-General has the power to direct local authorities to add fluoride to drinking water.[5]

[9] The Act provides that a local authority so directed must comply with the direction.[6] It is an offence to contravene the direction, and councils can face significant monetary penalties.[7]

[10] In November 2023, in response to a judicial review of the Direction (and the other 13 directions) brought by New Health, Radich J considered a preliminary legal issue in relation to the Bill of Rights.[8] Radich J concluded that:[9]

> …yes, the Director-General was required to turn his mind to whether the directions given to the 14 local authorities under s 116E of the Health Act [1956] were in each case a reasonable limit on the right to refuse medical treatment, he needed to be satisfied that they were and, if satisfied, he needed to say why that was so.

[11] New Health were accordingly successful on this discrete question and the Director-General was instructed to undertake this analysis. This is ongoing. The Director-General and the Attorney-General appealed this judgment. The appeal is to be heard by a Full Bench of the Court of Appeal in June 2025.

[12] Following Radich J's Preliminary judgment, he issued a Relief judgment on 16 February 2024.[10] Radich J was "not satisfied that the appropriate remedy [was] to quash the [Direction]".[11] Therefore, the Direction "continues to have effect unless and until it is revoked or amended by the Director-General".[12]

---

5 See Health (Fluoridation of Drinking Water) Amendment Act 2021, subpart 1, specifically s 116E.
6 Section 116I.
7 Section 116J.
8 *New Health New Zealand Inc v Director-General of Health* [2023] NZHC 3183 [Preliminary judgment].
9 At [116].
10 *New Health New Zealand Inc v Director-General of Health* [2024] NZHC 196 [Relief judgment].
11 At [29].
12 At [33], in accordance with the Judicial Review Procedure Act 2016, s 17(6)(a).

[13] The other claims advanced in the 2023 New Health judicial review remain to be considered substantively by this Court.[13]

Issues raised on the pleadings

[14] The applicants advance a broad challenge to the Direction and water fluoridation. Ms Grey, for the applicants, formulated her argument in written submissions by addressing the test for an interim injunction. Ms Grey accepted in oral argument that to obtain injunctive (or similar) relief, FAN must establish that the Council has unlawfully exercised, or refused to exercise, a public power.[14]

[15] The starting point must be the applicants' pleaded case. Although the Director-General and Attorney-General were added as the second and third respondents, the amended statement of claim dated 10 April 2024 only seeks declarations and orders against the Council. It seeks a declaration that the decision of the Council to recommence fluoridation in compliance with the Direction is unlawful "without a proper determination that this is a demonstrably justified limit of the protection in the NZ Bill of Rights Act, s 11 protection of the right to refuse medical treatment". And a declaration that it was unlawful for the Council to act "in reliance on a direction that the High Court found to be unlawful, to mass medicate public drinking water".

[16] In essence the applicants' case is that it is unlawful for the Council to fluoridate prior to completion of the Director-General's s 5 Bill of Rights analysis directed by the High Court.

[17] I will address the applicants' challenge under the following issues:

(a) Did Radich J expect that the Direction would not be acted upon prior to completion of the Director-General's s 5 analysis and/or does Radich J's decision have the effect of invalidating the Direction?

---

13 Preliminary judgment, above n 8, at [4] and [117].

14 Judicial Review Procedure Act 2016, s 16. See also Jessica Gorman and others *McGechan on Procedure* (online edition, Thomson Reuters) at [JR16.01].

(b) Can s 6 of the Bill of Rights or the principle of legality support the applicants' proposed interpretation of s 116I?

(c) Was the failure to seek or offer an extension to the deadline for compliance with the Direction unreasonable?

Did Radich J expect that the Direction would not be acted upon prior to completion of the Director-General's s 5 analysis and/or does Radich J's Relief decision have the effect of invalidating the Direction?

[18] Ms Grey submits it can be inferred from Radich J's Relief decision that he expected the Direction would not be acted upon pending the Director-General's reconsideration except in limited circumstances. For reasons I will explain, I do not accept that submission. But, in any event, what is relevant is the objective legal effect of Radich J's decision rather than any subjective expectation. The legal effect is that the Direction remains valid.[15]

[19] Ms Grey relies on the following passage from Radich J's judgment:[16]

> However, I am not satisfied that the appropriate remedy is to quash the decisions. As I said in the first decision, regard needs to be had to such factors as the potential for significant prejudice to public administration, prejudice to third parties and events subsequent. It is apparent from evidence filed that funding is being provided to local authorities for the capital works to which the directions relate. Practical relief needs to be given to require the substantive rights assessment to be undertaken by the Director-General, but without at this stage in the process setting the decision aside.

[20] Ms Grey submits that, based on this paragraph, Radich J expected that the Direction would not be acted upon unless it is going to impact funding to local authorities for capital works. I do not accept that is the correct interpretation of the paragraph. Radich J clearly decided that quashing and setting aside the Direction was inappropriate due to the potential for significant prejudice to a range of factors, of which he gave some examples.

[21] Radich J explicitly concluded that despite the Director-General's error of law, the Direction remains valid and of legal effect. In reaching that conclusion, Radich J

---

15 Relief Judgment, above n 10, at [33].
16 At [29].

took into account the submission made by New Health that the error of law is not simply a process error and the "Bill of Rights Act considerations cannot be minimised".[17] Having regard to that submission, and balancing the competing interests, Radich J decided that invalidating the directions was inappropriate.

[22] Ms Grey submits that the effect of Radich J's conclusion that the Direction contained an error of law means it is unlawful for the Council to act on the Direction given the importance of s 11 of the Bill of Rights. But this simply echoes the submission made to Radich J that such considerations "cannot be minimised", which Radich J rejected as providing sufficient basis to invalidate the decision. The legal effect of Radich J's decision is clear: the Direction remains valid and acting on it cannot be presumptively unlawful.

[23] Accordingly, there is no basis in Radich J's decision, or any other authority to which I have been referred, for the proposition it was unlawful for the Council to comply with a valid Direction simply because it is being reconsidered due to an error of law.

Can s 6 of the Bill of Rights or the principle of legality support the applicants' proposed interpretation of s 116I?

[24] The applicants also say the Council's decision to fluoridate was unlawful because it proceeded on the incorrect basis that it had no discretion under s 116I to not comply with the Direction.

[25] A majority of the Supreme Court has held that fluoridation engages the right in s 11 of the Bill of Rights to refuse medical treatment.[18]

[26] Section 116I(1) of the Act relevantly provides that "A local authority that receives a direction under s 116E must comply with the direction."

---

17 At [13].

18 *New Health* Supreme Court Judgment, above n 3, at [97]–[100] per O'Regan and Ellen France JJ, at [172] per Glazebrook J and at [243] per Elias CJ. William Young J did not support this conclusion (see [178]).

[27] It is common ground that it would be unlawful to comply with a direction under s 116E if a court *has* declared such a direction invalid. Ms Grey also did not dispute the proposition, relied upon by the respondents, that a mandatory function imposed by statute usually involves no exercise of a statutory power amenable to judicial review.[19] However, Ms Grey submits that the finding of an error of law by Radich J in the Preliminary judgment means this principle does not apply and the Council therefore had a discretion whether to comply with it.

[28] Ms Grey submits that this conclusion is mandated by the requirement, in s 6 of the Bill of Rights, to give s 116I a meaning consistent with the right to refuse medical treatment in s 11 of the Bill of Rights.

[29] Ms Grey particularly relies on the approach to s 6 taken by the Supreme Court in *Fitzgerald v R*.[20] Ms Grey also relies on the Supreme Court's articulation of the "principle of legality" in that case. [21]

[30] In effect, Ms Grey submits this approach requires s 116I to be interpreted as meaning "a local authority that receives a direction under s 116E must comply with the direction [but it has a discretion whether to comply if the High Court has found an error of law in respect of that direction insufficient to invalidate it]."

[31] It is important to disentangle the specific interpretive question the Court is being asked to address in these proceedings from the task faced in other proceedings. Whether the Direction itself is a justified limit on s 11 is to be determined in the existing New Health proceedings. As Ms Grey accepts, on pleadings and evidence filed in these urgent proceedings, I am in no position to resolve that question. The question in these proceedings is whether s 116I should be interpreted in the way proposed by the applicants, on the basis of either s 6 or the principle of legality.

---

19 *Henderson v Director of Land Transport New Zealand* [2006] NZAR 629 (CA); and s 5 of the Judicial Review Procedure Act 2016.

20 *Fitzgerald v R* [2021] NZSC 131, [2021] 1 NZLR 551.

21 At [51] per Winkelmann CJ, at [209]–[217] per O'Regan and Arnold JJ and at fn 364 per Glazebrook J.

[32] In answering this question, I am guided by Tipping J's well known six-step approach to application of ss 4–6 of the Bill of Rights in *Hansen v R*.[22]

[33] The first step is to determine Parliament's intended meaning. I accept the respondents' submission that the important status of the Bill of Rights is provided for in the Act by investing the Director-General with the discretion to make directions under s 116E.[23] It is clear that the legislative intention was to provide the Director-General with the power to make decisions about fluoridation under s 116E and remove the Council's ability to be involved in the decision-making process. This is clearly expressed in the purpose provision of the new Part 5A of the Act:

> (a) enable the Director-General to direct a local authority to add fluoride or not to add fluoride to drinking water supplied through its local authority supply; and
>
> (b) require the local authority to comply with the direction.

[34] Prior to the insertion of Part 5A, decisions about fluoridation lay solely with local authorities, which meant there was inconsistent fluoridation across the country.[24] The Parliamentary history is consistent with the stated purpose of Part 5A. It indicates that Parliament intended fluoridation to be the subject of public health expert decision making and not be left to the politically influenced decision making of local authorities.[25]

[35] Therefore, the plain words of the statute, and the statutory scheme and history, make it clear that it is the Director-General, as the government's senior public health expert, who must make decisions about fluoridation under Part 5A. And the Council's role under s 116I is limited to mandatory compliance with any direction once made. To read into s 116I the ability of the Council to exercise a discretion about whether to comply with a direction would be contrary to Parliament's clearly intended meaning.

---

22 *Hansen v R*, [2007] NZSC 7, [2007] 3 NZLR 1 at [92].

23 As Radich J found in his Preliminary judgment, above n 8, at [84]–[103].

24 At the time the Bill that became the new Part 5A was introduced, 27 of 67 local authorities had fluoridated some or all of their water, which meant approximately 54 per cent of the total population was receiving fluoridated water. This included large urban areas including Auckland, Wellington, Hamilton and Dunedin.

25 (6 December 2016) 719 NZPD 15531–15532 (Hon Peter Dunne); 15533 (Hon Annette King); 15536–15537 (Hon Poto Williams); 15538 (Barbara Kuriger);15542–15543 (Hon Jenny Salesa); 15545–15546 (Hon David Parker) and (8 June 2021) 752 NZPD 3269–3270 (Hon Dr Ayesha Verrall).

I also consider it would be inconsistent with the central principle of public law that decisions are presumed valid unless they are set aside by a court.[26] I accept the respondents' submission that this principle facilitates certainty and effectiveness in public administration and certainty for parties required to act in accordance with statutory decisions.

[36] The next question is whether this intended meaning is apparently inconsistent with the right to refuse medical treatment in s 11 of the Bill of Rights. Radich J has already held that s 116E places a strict obligation on the Director-General to conduct a s 5 analysis and assess Bill of Rights compliance before making a direction. I consider an interpretation that would provide local authorities with a further discretion under s 116I would undermine rather than enhance the right to refuse medical treatment. Local authorities lack the Director-General's national public health perspective and expertise and are subject to political influence. The statutory scheme grants the decision making power to the person best placed to ensure Bill of Rights consistency and assess justified limits.

[37] However, even if I am wrong about this, I consider the intended meaning is a reasonable limit on the s 11 right. I consider a straight-forward proportionality assessment leads to this conclusion.[27] This is because of the protection of the right afforded by the Director-General's Bill of Rights obligations under s 116E, the minimal intrusion on the right of not providing for a second discretion in s 116I (although as already noted, I consider this enhances rather than undermines the right), and the statutory objective of enhancing public health by ensuring fluoridation decisions are depoliticised and made by a national senior public health expert.

---

[26] *Martin v Ryan* [1990] 2 NZLR 209 (HC) at 236–241; *R v Panel on Take-overs and Mergers, ex parte Datafin plc* [1987] 1 QB 815 (CA) [*Datafin*] at 840; *F Hoffmann La Roche & Co AG v Secretary of State for Trade and Industry* [1975] AC 295 (HL) at 366; *R v Lancashire CC, ex parte Huddleston* [1986] 2 All ER 941 at 945; *R v Boundary Commission for England, ex parte Foot* [1983] QB 600 at 634 and 637; *New Health New Zealand Inc v South Taranaki District Council* [Court of Appeal judgment] at [194]; *Harness Racing New Zealand v Kotzikas* [2005] NZAR 268 (CA) at [60]–[61]; *Murray v Whakatane District Council* [1999] 3 NZLR 276 (HC & CA) at 320; *Air New Zealand Ltd v Wellington International Airport Ltd* [2009] NZCA 259, [2009] 3 NZLR 713 at [84]–[86]; and *New Zealand Steel Mining Ltd v Butcher* [2014] NZHC 1552 at [53].

[27] See *Mosen v Attorney-General* [2022] NZCA 507 at [28]–[31].

[38] Finally, even if my conclusions on the above questions are wrong, I do not consider the applicants' proposed interpretation of s 116I is a tenable or reasonably available interpretation. It is contrary to the plain words of the legislation and the statutory purpose, history and scheme; and it requires a mandatory statutory direction to be converted into a discretion, undermining a central principle of public law that such directions are presumed valid unless set aside by a court.[28]

[39] Turning briefly to the principle of legality. In *Fitzgerald*, O'Regan and Arnold JJ explained that it is a common law principle of statutory interpretation similar to s 6 of the Bill of Rights:[29]

> [217] To explain, as noted at [207] above, at a minimum, s 6 effectively gives legislative force to certain aspects of the principle of legality. Some of the fundamental values protected by the common law presumptions are specifically addressed in the Bill of Rights, while others are not (an example is the solicitor/client privilege). In that sense, the principle of legality at common law has wider scope than s 6.

[40] Ms Grey did not plead or argue the principle of legality with particularity. The basis of her argument in the hearing was that the principle of legality should compel an interpretation of s 116I in line with the construction discussed at [30] above. In order to interpret s 116I in line with the principle of legality as discussed in *Fitzgerald*,[30] I would first have to find that the mandatory compliance with the Direction by the Council affects a "core legal value",[31] or a "fundamental" common law right or principle.[32] In my view, the only articulation available of such a "trigger" in the applicants' case is: [33]

> A valid direction that is being reconsidered due to an error of law should not be acted upon until the reconsideration process is complete.

---

28 See fn 26.

29 *Fitzgerald v R*, above n 20, at [217].

30 At [51] per Winkelmann CJ, at [209]–[217] per O'Regan and Arnold JJ and at fn 364 per Glazebrook J.

31 At [215] per O'Regan and Arnold JJ.

32 Hanna Wilberg "Common Law Rights have Justified Limits: Refining the 'Principle of Legality' in Dan Meagher and Matthew Groves (eds) *The Principle of Legality in Australia and New Zealand* (The Federation Press, Sydney, 2017) 139. This paper was cited by Winkelmann CJ at fn 200 in *D (SC 31/2019) v New Zealand Police* [2021] NZSC 2, [2021] 1 NZLR 213, another recent Supreme Court decision that discusses the principle of legality.

33 See the helpful discussion of "triggers" for the principle of legality in Jason NE Varuhas "Conceptualising the Principle(s) of Legality" (2018) 29 PLR 187, cited by Winkelmann J at fn 73 of *Fitzgerald v R*, above n 20.

[41] I do not accept that this is a right with "sufficient common law pedigree" to trigger the principle of legality.[34] I was referred to no authority that supports the existence of such a right or principle. And, for the reasons already explained, it would be contrary to a central principle of the common law that directions remain valid until declared invalid by a court. Even if such a right or principle did exist, for reasons already discussed in the s 6 analysis, giving effect to it would not be a tenable interpretation of s 116I. There is no further interpretation of s 116I available in this case based on the principle of legality.

[42] There is a discretion whether to act on a s 116E direction following a court decision that it remains valid but must be reconsidered due to an error of law. However, that discretion rests with the Director-General, not with local authorities.

[43] Accordingly, I reject the applicants' contention that the Bill of Rights, or the principle of legality, require s 116I to be interpreted in a way that means the Council made an error of law by considering it had no discretion whether to comply with the Direction.

Failure to seek or offer an extension to the deadline for compliance with the Direction

[44] Following an exchange with me at the hearing, Ms Grey asked me to consider whether the Council's actions were unlawful on the basis of a failure to seek an extension to the deadline for compliance with the Direction. The amended statement of claim refers to the fact that the Nelson District Council has been granted such an extension and that there are requests for extension being considered in respect of other Councils.[35] But it does not ask for a declaration that the Council's failure to seek an extension was unlawful.

[45] This means the parties' evidence and written submissions did not address this line of inquiry, including whether the decision not to seek an extension is amenable to review, and if so, the grounds on which it could be considered unlawful. However, I

---

34 Hanna Wilberg, above n 32, at 161.

35 As I understand it, to date requests have been made by Kawerau District Council, Horowhenua District Council, Far North District Council and Tararua District Council on the basis, among other things, of the uncertain legal situation created by Radich J's decisions and the pending appeal.

do not consider the respondents are prejudiced by me dealing with this issue on the material before me, given the conclusions I have reached.

[46] Assuming (without deciding), that the failure to seek an extension for compliance with the direction is amenable to review, given the lack of pleading the only ground of review that can be realistically considered is unreasonableness. For example, the decision might be unreasonable if it could be said, on the material before me, there was no rational basis for the Council to refrain from seeking an extension. The problem for the applicants is the evidence does not support such a conclusion.

[47] The Council has fluoridated its water supply since 1954. It was put to referendum twice, in 1990 and 2013, with the 2013 referendum resulting in 63.5 per cent in favour and 36.5 per cent opposed to fluoridation. Fluoridation was only interrupted in 2016 due to the campylobacter outbreak that required the water supply to be chlorinated. At the time, the Council only had capability to add one element to the water supply. The Council has undertaken a substantial upgrade to its water infrastructure following the 2016 outbreak at a cost of approximately $100 million. At no stage has the Council revisited its longstanding approach to fluoridate its water supply.

[48] In substance, therefore, the Council is in the same position as the local authorities that fluoridate their drinking water but were not subject to the Direction. These local authorities were not subject to a direction under s 116E because they were already fluoridating when Part 5A of the Act came into force and were required to continue to do so under Schedule 1AA.[36] This included the large population districts of Auckland, Hamilton, Wellington and Dunedin.

[49] Requiring the Council to cease fluoridation would be at odds with the continued fluoridation across large parts of the country, and contrary to the longstanding approach for the Hastings' urban water supply. Moreover, the Council's evidence is that now it has its infrastructure in place, it has no practical reason not to comply with the Direction. The Council also considers there is a risk of causing

---

[36] Health Act 1956, sch 1AA, pt 1(1).

uncertainty and confusion within the Hastings community, given the publicity surrounding the Council's decision to recommence fluoridation.

[50] Accordingly, there is ample evidence of a rational basis for the Council not to have sought an extension.

[51] Further, although this was also not pleaded, the applicants appeared to collaterally challenge the Director-General's failure to offer an extension proactively. For the same reasons (and again assuming, without deciding, amenability to review), on the material before me, I consider there is ample evidence of a rational basis for the Director-General to have not offered an extension to the Council in the exercise of her discretion.

[52] Finally, to the extent that requests for extensions have been made by other Councils on the basis that Radich J's decisions have created uncertainty about the lawfulness of acting on the Direction, this decision should assist with dispelling that uncertainty.

Conclusion

[53] For these reasons, I consider the applicants have failed to establish that the Council's decision to comply with the Director-General's Direction was unlawful. I therefore dismiss the application for judicial review.

[54] My preliminary view is that the respondents are entitled to costs on a 2B basis with certification for second counsel. If costs cannot be agreed, the parties should file memoranda within 10 working days (limited to five pages), and reply memoranda (limited to two pages) five working days thereafter. Costs will be determined on the papers.

La Hood J

Solicitors:
S J Grey, Nelson for Applicants
Simpson Grierson, Wellington for First Respondent
Crown Law Office, Wellington for Second and Third Respondents