Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

19 DECEMBER 2025

MEDIA RELEASE

CLIMATE CLINIC AOTEAROA INC v MINISTER OF ENERGY AND RESOURCES

(SC 55/2024) [2025] NZSC 197

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest: www.courtsofnz.govt.nz.

What this judgment is about

Section 24 of the Crown Minerals Act 1991 (CMA) authorises the Minister of Energy and Resources to offer petroleum exploration permits for tender. Upon receiving bids, s 25 enables the Minister to grant such permits. The purpose of the CMA, as set out in s 1A(1), is "to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand".

A key focus of this appeal is the interpretation of the phrase "for the benefit of New Zealand". Specifically, this judgment addresses whether that phrase requires decision makers under ss 24 and 25 of the CMA to consider climate change as a mandatory relevant consideration when deciding whether to offer and grant petroleum exploration permits. Matters of climate change claimed to require consideration include those listed in s 5ZN of the Climate Change Response Act 2002 (CCRA), which are: New Zealand's target of net-zero emissions by 2050 (2050 target); an emissions budget; and an emissions reduction plan. This appeal also considers the nature and extent of the obligation in s 4 of the CMA for decision makers under ss 24 and 25 to have regard to the principles of the Treaty of Waitangi.

Background

In 2018, New Zealand changed its policy on petroleum exploration and mining. Through amendments to the CMA, it banned the allocation of new offshore petroleum exploration permits and limited future permits to the onshore Taranaki region. In July 2020, an authorised delegate of the Minister of Energy and Resources invited tenders under s 24 of the CMA for petroleum exploration permits in the onshore Taranaki region. Greymouth Gas

Turangi Limited (Greymouth) and Riverside Energy Limited (Riverside) each submitted a bid. There were no competing bids for their respective areas. In June 2021, another authorised delegate granted the permits to Greymouth and Riverside under s 25.

In July 2022, the appellant brought a claim in the High Court challenging the lawfulness of the s 25 decisions to grant the permits. The appellant argued that the phrase "for the benefit of New Zealand" required the s 25 decision maker to take into account, as a mandatory relevant consideration, the climate change implications of the decisions. It argued further that the s 25 decision maker had not engaged with the principles of the Treaty of Waitangi in a meaningful way, contrary to the requirement in s 4 of the CMA, because they had limited their consideration to the localised impacts of the proposed activities on iwi and hapū with direct interests in the permit area.

Courts below

The High Court dismissed the appellant's challenge. It interpreted the phrase "for the benefit of New Zealand" as Parliament's indication that it wished prospecting, exploration and mining to take place *because* those activities are for the benefit of New Zealand. Therefore, climate change considerations (including those under s 5ZN of the CCRA) were irrelevant considerations to the s 25 decisions to grant the petroleum exploration permits. While the Judge accepted that Treaty considerations were relevant by virtue of s 4, he was satisfied that the decision maker had adequately considered them.

The Court of Appeal dismissed the appellant's appeal. The Court was unanimous that climate change was not a mandatory relevant consideration. However, it divided on whether climate change *could* be taken into account by the decision maker as a permissible consideration. Mallon J considered that aspects of climate change — the matters listed in s 5ZN of the CCRA — were permissible considerations. French and Gilbert JJ declined to express a view on that issue. The Court of Appeal also agreed with the High Court that the decision maker adequately considered the principles of the Treaty.

Issues

This Court granted the appellant leave to appeal the Court of Appeal's decision. The approved question was whether the Court of Appeal was correct to dismiss the appeal. Without limiting the scope of argument, the parties were directed to address whether the climate change considerations expressed in s 5ZN of the Climate Change Response Act 2002 (CCRA) are mandatory, permissive or irrelevant considerations when granting a petroleum exploration permit under s 25 of the CMA, and, if those considerations are not irrelevant, whether the decision maker in fact gave them due consideration.

Supreme Court decision

The Supreme Court has unanimously dismissed the appeal.

The critical decision will usually be the s 24 decision to offer blocks for tender

As a preliminary point this Court noted that, in terms of the statutory scheme, the critical decision in relation to the issue of permits for exploration or mining will usually be the s 24 decision to offer blocks for tender, rather than the s 25 decision to grant permits following a

tendering process (at [47]). This is because the s 24 decision to offer an area for tender is an in-principle decision that exploration may be permitted in the area. It would also undermine the promotional intent of the CMA to invite tenders under s 24 but then decide under s 25, for reasons that could have been weighed at the s 24 stage, not to allocate permits. The Court therefore addressed whether climate change was a mandatory relevant consideration primarily with reference to the s 24 decision (at [49]).

The s 24 decision maker must address whether a proposed activity is for the benefit of New Zealand

On the interpretation of s 1A(1) of the CMA, the appellant argued that the words "for the benefit of New Zealand" indicate that the CMA's purpose is to promote prospecting, exploration and mining *only where* those activities benefit New Zealand. By contrast, the respondent submitted that the wording of s 1A(1) conveys that the purpose of the CMA is to promote prospecting, exploration and mining *because* those activities benefit New Zealand.

The Court agreed with the appellant that, properly interpreted, the reference to "the benefit of New Zealand" in s 1A(1) of the CMA is not simply a recognition of the benefits that flow from mining, but a statement that what is promoted by the CMA is exploration and mining that is for the benefit of New Zealand. It followed that when deciding under s 24 whether to offer exploration or mining permits for public tender, the decision maker is required to address whether such an offer is for the benefit of New Zealand (at [83]–[85]).

Climate change is a mandatory relevant consideration at the s 24 stage

Climate change is important context for the s 24 decision (at [86]–[87]). Climate change is a matter of pressing concern for New Zealand and its well-being both in the near and long term. Moreover, the Crown has entered into binding obligations on New Zealand's behalf in connection with reducing greenhouse gas emissions. Petroleum extraction and consumption are major contributors to greenhouse gas emissions in New Zealand and internationally.

In that context, the Court found that climate change is a mandatory relevant consideration for a s 24 decision maker when deciding whether to offer petroleum exploration permits for tender (at [87]). This is because climate change is so obviously relevant to a decision to commence a process which is intended, if successful, to progress through to extraction of petroleum. The matters listed in s 5ZN of the CCRA are aspects of climate change that the decision maker is required to consider (at [90]).

The Court acknowledged that the obligation to consider climate change differs between the s 24 decision to offer blocks for tender and the s 25 decision to grant permits. Climate change must be engaged with as a mandatory relevant consideration at the s 24 stage (at [93]). At the s 25 stage, it is unlikely that further engagement with climate change will be necessary beyond the matters arising under s 29A of the CMA.

The decision maker adequately considered climate change in this case

No affidavit was filed by the s 24 decision maker in this case because the focus of the challenge was the s 25 decisions. The Court nevertheless proceeded to address the arguments in relation to the s 25 decisions because it heard full argument on the point.

In assessing whether the s 25 decision maker adequately considered climate change, the Court found that even if they had been obliged to engage afresh with climate change as a mandatory relevant consideration, they had done so (at [96]–[107]). The decision maker had received detailed briefings from officials which addressed climate change. Beyond that advice, the decision maker was aware of other relevant matters, including work on the development of a National Energy Strategy, correspondence from Lawyers for Climate Action New Zealand Inc, a briefing to the Minister responding to that correspondence, and a broader work programme being undertaken in the Ministry related to climate change. Although the decision maker referred specifically to ss 5ZN and 5ZO of the CCRA, it was apparent that the advice they adopted as their own went further. The first ground of appeal was therefore dismissed.

Treaty principles necessitate consideration of the impact of climate change generally on Māori

On the second ground of appeal, the Court agreed with the appellant and Te Hunga Rōia Māori o Aotearoa that the Crown's duty of active protection of Māori Treaty interests requires the Crown to actively engage with the nature of the interests affected by Crown action, and with the nature of that Crown action (at [133]). It may require the Crown to act to protect these interests, including by taking "especially vigorous action" where a taonga is in a vulnerable state.

In this case, the obligation to have regard to the principles of the Treaty pursuant to s 4 of the CMA required the s 24 decision maker to consider the impacts of climate change on Māori beyond the Taranaki hapū and iwi directly affected by the decision (at [135]). Compliance with the obligation required the gathering of information on the impact of climate change upon Māori Treaty interests, and the consideration of that information by the s 24 decision maker.

The pleaded basis of the challenge to the Court was the s 25 decisions to grant the permits. There was no pleaded challenge to the s 24 decision, and therefore no affidavit from the s 24 decision maker, so the Court could not decide the appeal on that point (at [136]).

Even if the challenge had been directed at the s 24 decision, the Court considered that such an error was unlikely to have been sufficient to justify the quashing of the permitting decisions (at [137]). That was because it was unlikely that consideration of the impacts of climate change on Māori Treaty interests beyond those of the Taranaki hapū and iwi directly affected would have materially affected the s 24 decision. The Court reached that view in light of the obvious need to secure a "just transition" away from reliance on petroleum resources, including the carve-out of the Taranaki onshore area from the ban on further exploration. That meant the appeal on the second ground must also be dismissed.

Result

A The appeal is dismissed.

B There is no order as to costs.

Contact person:
Sue Leaupepe, Supreme Court Registrar (04) 914 3613