

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 49/2024
[2024] NZSC 103

BETWEEN LOUISE BUCHANAN, KEITH
MARSHALL AND ALISTAIR DONALD
AS TRUSTEES OF THE BUCHANAN
MARSHALL FAMILY TRUST
Applicants

AND TASMAN DISTRICT COUNCIL
Respondent

Court: Glazebrook, Ellen France and Kós JJ

Counsel: A R Shaw and L C L Yong for Applicants
C M Meechan KC and A C Harpur for Respondent

Judgment: 20 August 2024

JUDGMENT OF THE COURT

- A** Leave to appeal is granted (*Tasman District Council v Louise Buchanan, Keith Marshall and Alistair Donald as Trustees of the Buchanan Marshall Family Trust* [2024] NZCA 133).
- B** The approved question is whether the Court of Appeal was correct to hold that there was no duty of care owed by the respondent to the appellants while carrying out and making statements in relation to pool inspections under the Fencing of Swimming Pools Act 1987.
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REASONS

[1] The applicants seek reinstatement of the orders set out in [131(b)-(d)] of the judgment of the High Court.¹ They have confirmed by memorandum of 29 July 2024

¹ *Buchanan v Tasman District Council* [2023] NZHC 53 (Palmer J).
LOUISE BUCHANAN, KEITH MARSHALL AND ALISTAIR DONALD AS TRUSTEES OF THE
BUCHANAN MARSHALL FAMILY TRUST v TASMAN DISTRICT COUNCIL [2024] NZSC 103 [20 August
2024]

that they do not challenge the findings of the Court of Appeal in relation to declaratory relief.

[2] The respondent, by memorandum of 5 August 2024, confirmed that it does not intend to support the judgment on other grounds, including limitation grounds.²

Solicitors:
C & F Legal Ltd, Nelson for Applicants
Rice Speir, Auckland for Respondent

² This means that, should the appeal be allowed, the High Court findings on limitation will stand. We note that, contrary to [4] of the respondent's memorandum, the Court of Appeal only made obiter comments and did not make binding findings with regard to the longstop limitation period.