IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-A-TARA ROHE

CIV-2025-485-020
[2025] NZHC 885

UNDER	the Judicial Review Procedure Act 2016
IN THE MATTER	of an application for judicial review of a decision to make the Land Transport Rule: Setting of Speed Limits 2024
BETWEEN	MOVEMENT Applicant
AND	MINISTER OF TRANSPORT First Respondent
	NEW ZEALAND TRANSPORT AGENCY Second Respondent

Hearing:	9 April 2025
Counsel:	S R Gepp KC and J P Cundy for Applicant P H Higbee and R M Fistonich for First Respondent R E Brown and D A Northfield for Second Respondent
Judgment:	14 April 2025

JUDGMENT OF RADICH J
[Application for interim orders]

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[1] Under the former Government's 2020 Road to Zero strategy,[1] a set of road safety interventions were put in place which saw reductions in speed limits in certain places and circumstances.[2]

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1 New Zealand Government | Te Kāwanatanga o Aotearoa, *Road to Zero: New Zealand's Road Safety Strategy 2020–2030* (December 2019).

2 The reductions were implemented in part through a speed limit rule – the Land Transport Rule: Setting of Speed Limits 2022 – and in part by local road controlling authorities following their own reviews (as mentioned later in this decision).

[2] In September 2024, the Government made a speed limits rule (the 2024 Rule) which includes a requirement that some roads have their speed limits reversed to the higher 2019 limits.[3] It follows a revised policy under which the current Government is "rebalancing how it deals with the setting of speed limits" by moving away from blanket reductions to a more targeted approach to speed limit changes.[4]

[3] Movement[5] has filed a judicial review proceeding seeking orders quashing the 2024 Rule and requiring speed limit increases to be returned to the lower limits they replaced. It does so on a number of grounds, alleging in broad terms that, in making the 2024 Rule, the Minister acted inconsistently with his functions and objectives, was mistaken about material information or failed to take material factors into account.

[4] In this interim orders application, Movement seeks orders that would, in practical terms, halt the implementation of the 2024 Rule pending the outcome of its application for judicial review.

[5] Hundreds of speed limit reversals are already in place and underway. In the case of many more, the requirement for road controlling authorities (RCAs) to submit a list of reversals to the New Zealand Transport Agency | Waka Kotahi (NZTA) by 1 May 2025 is yet to be met.

[6] The reversals must, under the 2024 Rule, come into force by no later than 1 July 2025. Movement says that they should not come into effect because they are unsafe and because they would affect the availability of effective relief if the substantive proceeding is successful.

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3 Land Transport Rule: Setting of Speed Limits 2024 [2024 Rule].

4 New Zealand Government | Te Kāwanatanga o Aotearoa *New Zealand's road safety objectives* (October 2024) at 12.

5 Movement is a trust incorporated under the Charitable Trusts Act 1957 and advocates for safe and sustainable transport.

The power to make land transport rules and the rules themselves

Land Transport Act 1998

[7] The Minister's power to make rules about roads comes from the Land Transport Act 1998. Its long title tells us that it is an Act (as relevant here) to promote safe road user behaviour and to provide for a system of rules to govern that behaviour.

[8] The Minister's objectives under the Act are, as relevant here, to "undertake the Minister's functions in a way that contributes to an integrated, safe, responsive and sustainable transport system".[6] The Minister's functions under the Act are (as relevant here) to promote safety in land transport and to make ordinary rules under the Act.[7]

[9] Under s 152 of the Act, the Minister may make 'ordinary rules' for "all or any" of a number of purposes, including for safety, for matters related to the Minister's objectives and functions, and for assisting economic development, among others.[8]

[10] Sections 153 to 157 prescribe powers (without limiting the general power in s 152) to make rules about particular things. Section 157 provides for "rules concerning roads" which may (among other things) set speed limits for roads throughout New Zealand or empower or require RCAs to set speed limits for roads within their jurisdiction.

[11] Section 164 provides for the matters to which a Minister must have regard when making or recommending rules. The matters are described in particularly broad terms. They require the Minister in making or recommending a rule to "give such weight as the Minister … considers appropriate in each case" to a range of matters. The matters include levels of risk existing to land transport safety in New Zealand in general, the need to maintain and improve land transport safety and security, the costs of implementing measures and whether the proposed rule improves access and mobility, protects and promotes public health, or assists economic development. And

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6 Land Transport Act 1998, s 169(a). Section 169(b) sets an objective of ensuring that New Zealand's obligations under international agreements relating to land transport are implemented.

7 Section 169A.

8 Under s 152(2) ordinary rules under the provision are secondary legislation.

then, as s 164(2)(g) provides, the Minister may have regard to "such other matters as the Minister … considers appropriate in the circumstances".

The 2024 Rule

[12] Clause 2.1(1) of the 2024 Rule tells us that the applicable speed limit for a road at any given time is the speed limit in the Register at that time – the register of land transport records that is known as the National Speed Limit Register, maintained by NZTA, the second respondent, in its capacity as Registrar.[9] RCAs are responsible for setting speed limits. NZTA is the RCA for New Zealand's state highway system[10] while local authorities are the RCAs for local roads.

[13] Under cl 2.10 of the 2024 Rule, a speed limit is set when NZTA creates a land transport record in the Register in its capacity as Registrar.

[14] The 2024 Rule makes three main changes.

[15] First, the 2024 Rule introduces schedule 3 which specifies permanent speed limits for different types of roads. It includes, for example, provision for a 40 km/h limit on streets with significant levels of pedestrian and/or cycling activity, 10–20 km/h in civic spaces and 30 km/h for urban intersections with a history of high-risk crash types. Under cl 4.5, those speed limits must be imposed when RCAs are in future changing or implementing speed limits, along with other new processes set in Section 3 of the Rule.

[16] Secondly, and most relevantly to this proceeding, schedule 2 provides for speed limit reversals. Under cl 11.2, before 1 May 2025, NZTA and specified RCAs[11] must, before 1 May 2025, reverse speed limits on "specified roads" to reflect the speed limits on those roads before 1 January 2020. This clause targets speed limit reductions that were introduced between 2020 and 2024, under the previous Government. The reductions came about in two ways. First, through a 2022 speed limit rule[12] and,

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9 The register is established by s 200E of the Land Transport Act.

10 Government Roading Powers Act 1989, s 61.

11 All RCAs that are a territorial authority as defined in s 5 of the Local Government Act 2002, including a RCA that is a unitary authority, Auckland Council, or Auckland Transport: 2024 Rule, cl 1.4.

12 Land Transport Rule: Setting of Speed Limits 2022.

secondly, as a result of RCAs initiating their own reviews, such as the Safe Speeds Programme implemented by Auckland Transport in June 2020[13] and mid-2022[14] which reflected Auckland Transport's Vision Zero goal.[15]

[17] RCAs must submit the reversals to NZTA as Registrar by 1 May 2025 and the reversals must come into force by no later than 1 July 2025.

[18] The "specified roads" to which the schedule relates, are (to summarise) local streets with a permanent 30 km/h speed limit (if one of the reasons for setting that speed limit was because there is a school in the area), arterial roads (urban connectors and transit corridors) and rural state highways (rural connectors and interregional connectors).

[19] An exception to the reversals is provided in cl 11.3 for cases where a reversal affects a local street outside a school gate. In those cases, the RCA must set a 30 km/h variable speed limit during school travel periods.[16] This is the third main change. It applies the same variable speed limit requirement to roads outside all school gates. In broad terms, this variable limit requires a 30 km/h speed limit outside school gates in urban areas and a 60 km/h or less limit in rural areas during school travel periods.[17] In this way, a consistent approach outside school gates throughout the country is taken.

[20] There is one further exception to the mandatory reversals. Clause 11.4 provides that amended speed limits, set on or after 1 January 2020, may be retained for certain specified roads:

> (a) where a reversal would be inappropriate due to a significant change in the land use adjacent to the road; or

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13 Auckland Transport *Speed Limits Bylaw 2019: Consolidated version – incorporating amendments up to and including 20 September 2020* (20 September 2020).

14 Auckland Transport *Speed Limits Amendment Bylaw 2022* (31 March 2022).

15 Auckland Transport *Vision Zero for Tāmaki Makaurau: A transport safety strategy and action plan to 2030* (September 2019).

16 Accordingly, if, for example, a reversal sees the speed limit outside a school being 50 kmph, it must reduce to 30 kmph during school travel periods which are 45 minutes either side of the bell at the start and end of the day, as well as 10-minute periods where significant numbers of children cross the road or enter or leave vehicles such as for a school sports event: cl 5.3.

17 See 2024 Rule, cls 5.1, 5.2 and 1.4 for definitions of "category 1 school" and "category 2 school".

(b) where the road is a rural or interregional connector and NZTA is satisfied that there is public acceptance for the amended speed limit for that road.

Underlying considerations

[21] A primary driver for Movement is the proposition that vehicle speed is a key risk factor affecting both the likelihood and severity of crashes and resulting injuries and that lower speed limits is an effective tool to address those factors. They support the speed limit reductions that were put in place by many RCAs in accordance with the 2020 Road to Zero policy or other local policies. For example, Auckland Transport reduced speeds on over 800 km of local roads (11 per cent of the local road network) in 2020–2021, on a further 800 roads in 2022 (eight per cent of the network) and on roads around 75 schools in late 2022–2023.

[22] Movement refers to research and data which point to reductions in accident and injury rates in the wake of lower speed limits.[18]

[23] Affidavits have been filed for Movement by people who have described elderly drivers at a particular retirement village as feeling safer when entering an adjoining state highway where vehicles travel at 80 km/h rather than at 100 km/h and by people who have described the speed of vehicles on routes used by children to get to school as affecting the safety of those children who walk, bike or scooter to school.

[24] For the Minister, the point is made that speed limits are only one lever that can be used to promote road safety. The *New Zealand's Road Safety Objectives* policy document that underlies the 2024 Rule includes other such levers such as improving road infrastructure quality, focusing on the enforcement of speed limits, promoting driving unimpaired by drugs or alcohol, and promoting safer vehicle standards. The

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[18] For example, Movement refers to research commissioned by Christchurch City Council to show that the introduction of a 30 kmph zone in Christchurch Central in 2016 reduced the expected rate of crashes by 20 per cent and the expected rate of injuries by 46 per cent. Movement submits (acknowledging that data on the effect of the more recent speed limit reductions is limited due to the short period since implementation) that analysis commissioned by Auckland Transport shows there was, following reductions to speed limits as part of its Safe Speeds Programme, a 44 per cent reduction in fatal injuries, a 14 per cent reduction in serious injuries and a 17 per cent reduction in minor injuries as shown by comparison group site analysis.

policy document allocates $1.335 billion to New Zealand Police for road policing and enforcement and sets policing targets for speed offences. Furthermore, the Land Transport (Drug Driving) Amendment Act 2025 was enacted by the current Government as part of its road safety policy. It allows police officers to administer tests for drug consumption to drivers without cause, much in the same way as tests for alcohol consumption.

[25] These measures reflect a different set of policy choices on safety interventions compared with the policy choices – and the speed limits upon which Movement focuses – set out in the 2020 Road to Zero strategy or in other local programmes, such as Auckland Transport's Safe Speeds Programme.

Interim orders

[26] The Court may, under s 15 of the Judicial Review Procedure Act 2016, make an interim order declaring – in the case of the Crown – that it ought not to take any further action that is consequential on the exercise of a statutory power if it is "necessary to do so to preserve the position of the applicant".[19]

[27] The statutory threshold of the necessity to preserve the position of the applicant is the primary consideration for the Court in considering whether or not to make interim orders. A wide discretion then applies under which the Court will consider all of the circumstances of the case, including the apparent strength or weakness of the claim of the applicant for review and all of the repercussions, public or private, of granting interim relief.[20]

[28] The interim relief power has a dual purpose: it seeks to preserve the ability of the Court to grant effective relief if the challenge is successful, and it relieves an

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19 Under s 15(2) of the Judicial Review Procedure Act 2016, interim orders may be made, amongst other things, prohibiting a respondent from taking action that is consequential on the exercise of a statutory power but, under s 15(3), if the Crown is the respondent, then a declaratory order is needed.

20 This general approach was established by the Court of Appeal in *Carlton & United Breweries Ltd v Minister of Customs* [1986] 1 NZLR 423, (1986) 2 TCLR 7 and has been applied repeatedly since including, as a recent example, in *Aitken v Judicial Conduct Commissioner* [2025] NZHC 190 at [16].

applicant from the adverse effects of a challenged decision until the challenge is heard and determined.[21]

[29] In considering necessity, it is important to understand in the context of the substantive claim whether there is in fact a position that should be preserved. The threshold will not be met where an applicant is seeking to improve their position, rather than preserve it. And it is important that there is a "reasonable" necessity,[22] as contrasted with a strong preference. However, for all of that, the Court has demonstrated that it is willing to take a liberal approach to the preservation threshold.[23] But that is much less likely to be the case where the merits of the substantive application for review are weak, or where an application amounts to a challenge that a decision is wrong on a merits basis.[24]

[30] Having considered the threshold requirement, the Court's residual discretion is wide. Broad principles of relevance here include the following:

(a) In assessing the strength of the applicant's case, there is no bright line threshold requirement but the Court does need to be satisfied that there is at least a reasonable chance of the applicant succeeding.[25]

(b) In considering the public and private repercussions of granting relief, the Court will consider a range of public interest consequences,[26] together with balance of convenience and overall justice considerations.[27]

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21 *Greer v Chief Executive of Department of Corrections* [2018] NZHC 1240, [2018] 3 NZLR 571 at [24].

22 *Carlton & United Breweries Ltd v Minister of Customs*, above n 20.

23 See, for example, *Christiansen v Director-General of Health* [2020] NZHC 887, [2020] 2 NZLR 556, where the applicant successfully obtained interim relief on a challenge of a refusal to cut short his mandatory 14-day isolation to see his dying father; and *Nga Kaitiai Tuku Iho Medical Action Society Inc v Minister of Health* [2021] NZHC 1107, where the applicant sought orders aimed at halting the initial roll out of a COVID-19 vaccine and the Court accepted it was "arguable" the applicant had a position to preserve because by the time the claim was heard the vaccine would have largely been rolled out and the relief it sought on an interim basis would be unavailable (at [55]).

24 *MKD v Minister of Health* [2022] NZHC 67, [2022] NZAR 1 at [55]–[57] and [63]. In that case, Ellis J found that the applicant's desire to protect their unvaccinated children's ability to have full access to school and community facilities did not give rise to a protectable position to preserve (at [54]).

25 *Esekielu v Attorney-General* (1993) 6 PRNZ 309 (HC).

26 *Wallace v Chief Executive of the Department of Corrections* [2022] NZHC 2464 at [88].

27 *Aitken v Judicial Conduct Commissioner*, above n 20, at [18].

(c) Delay in seeking interim relief may count against the exercise of the Court's discretion, particularly where it contributes to the public interest consequences of the order sought.[28]

[31] While factors such as these are examples of the exercise of the Court's discretion, at its broadest it can be said that – as with applications for interim injunctions – so long as the threshold is met, the Judge needs to stand back at the end of the day and ask themselves where the overall justice lies.

Is it necessary to preserve the applicant's position?

[32] Movement says that, as a result of considerations of the type that I have described in [21] to [23] there are two aspects to the position that it seeks to preserve. The first is described in the following way:

> … for increased speed limits not to come into effect, with the consequential higher risks that these limits would entail for health, safety and the economy,[29] in the period before the substantive application is determined.

It is said that interim orders are necessary "to preserve that position" because otherwise the increased speed limits will be registered by 1 May 2025 and implemented by 1 July 2025 and will apply until the substantive proceeding is determined – resulting in heightened risk during this period.

[33] However, there is no basis upon which interim orders should properly be used to preserve a policy setting that an applicant prefers. Movement has a strongly held view about where it believes the public interest is on this issue. But it is not the only view. Public policy considerations, such as those I have described in [24] above, combined with the breadth of the powers the Minister has to make rules to address land transport safety, are such that there are any number of positions to be taken. It is difficult for the Court to find that just one of those positions – the one the applicant prefers and the one the Minister did not select – is protectable.

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28 See, for example, *Guinness Wines & Spirits Ltd v Licensing Control Commission* HC Wellington A250/84, 24 July 1984.

29 Citing the Speed Monitoring Economic Assessment prepared for the New Zealand Transport Agency | Waka Kotahi in March 2024 – WSP *New Zealand Transport Agency Waka Kotahi: Speed Monitoring Economic Assessment 2024* (28 March 2024).

[34] The particular policy setting to be used at any given time is a matter for the Minister. As Lewis LJ and Garnham J said in the England and Wales High Court, the Courts need to ensure that consideration of the grant of generalised, or "class" interim relief does not draw them into the role of deciding how public law powers should be exercised.[30]

[35] Movement says that the case is not just about public policy settings and that there are tangible effects from the Government's policy position which need to be protected: particular changes to particular speed limits on particular roads affecting the people who use the roads. Ms Gepp KC referred, by way of example, to cases such as *Auckland Pride v Minister of Immigration* and *Auckland Yacht and Boating Association Incorporated v Auckland Council* where it is said that no clear distinction is drawn between the overarching public policy considerations for a decision and its practical effects.[31]

[36] The circumstances in those cases differ from those here. Policy positions taken in them led to a single and direct consequence for the applicant: seeking to prohibit a Minister from permitting an individual (intending to speak at an event) from entering New Zealand in one case and seeking to halt the termination of an agreement relating to services provided at a landing area on the Waitematā Harbour in the other. The policy setting and its practical effects that are in issue in this case sit at a higher level. The public policy setting chosen in the Minister's decision to make the 2024 Rule results in delegated legislation that is presumed to be valid[32] and which affects road users as a whole.

[37] The situation here is better aligned with that in cases like *Curtis v Minister of Defence*.[33] That case concerned the actions of the Minister in disbanding New Zealand's air combat force. As Heron J said, in the context of such a broad discretionary policy setting, "impossible questions of the degree to which any particular force is armed follow" such as there could not be a clear answer on the

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30 *R (On the Application of KMI) v Secretary of State for the Home Department* [2021] EWHC 477 (Admin), [2021] 1 WLR 3081 at [40].

31 *Auckland Pride v Minister of Immigration* [2023] NZHC 758, [2023] 2 NZLR 651; and *Auckland Yacht and Boating Association Incorporated v Auckland Council* [2023] NZHC 1047.

32 *Harness Racing New Zealand v Kotzikas* [2005] NZAR 268 (CA) at [62].

33 *Curtis v Minister of Defence* HC Wellington CP253/01, 20 November 2001.

relevant statutory test which, in turn, is a ground for not interfering at an interim stage.[34]

[38] Furthermore, the "position" that Movement seeks to protect has already shifted in material ways. NZTA has registered speed limit reversals – submitted to it by RCAs under schedule 2 of the 2024 Rule – for 273 roads or sections of road. And RCAs have submitted speed limit reversal details for an additional 245 roads or sections of road which NZTA is in the process of registering.[35] In addition, in Auckland alone, 32 urban connectors have already had their speed limits reversed and work to install concrete foundations for signage for the variable speed limits began in March.

[39] I acknowledge there is much work that is yet to be done. Auckland Transport, for example, has provided a list of 1,528 local roads that are subject to the speed limit reversal requirement. There will be many more from the other RCAs.[36] However, the point is that the train has left the station and is now a good way down the line. The tangibility of any position for which Movement argues is diminishing. That, in many ways, is the product of the delay that I come on to describe on the part of Movement.

[40] The second aspect of the position that the applicant seeks to preserve is the availability of effective relief if the substantive challenge is successful. It refers to the steps that are in the process of being taken under the 2024 Rule to give effect to the reversals.[37] It is concerned that, were it to succeed, a return to the previous speed limits would come at a significant cost to RCAs on top of the costs they are incurring in meeting the 2024 Rule requirements. As has been said for NZTA, the programme of work required to update the register following the introduction of the 2024 Rule is substantial and has seen a need for it to increase its resources. A reversal of the reversals will be equally substantial.

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34 At [14] and [24].

35 These figures are all as at 4 April 2025.

36 In an Auckland Council Transport, Resilience and Infrastructure workshop on 19 March 2025, the Chief Executive Officer is recorded as saying that its timing in notifying changes to the NZTA under schedule 2 will follow this hearing – indicating that it will essentially be guided by it. That is not in itself an indication of a position to preserve.

37 Which involve, in the first instance, the preparation and presentation of information to New Zealand Transport Agency | Waka Kotahi as Registrar under the Land Transport (Register of Land Transport Records – Speed Limits) Regulations 2002 and then the steps required under the 2024 Rule to provide, under cl 11.6 in schedule 3, a list of specified roads by 1 May 2025, and the practical steps that then need to be implemented to give effect to the reversals.

[41] However, there would appear to be no jurisdictional basis preventing the Court from ordering the substantive relief sought.[38] Essentially then, if, ultimately, Movement is successful, Movement seeks the interim orders on the basis that they are desirable, rather than reasonably necessary, to preserve its substantive position. The practical consequences of reversing the reversals on a substantive basis will be a relevant factor in the exercise by the Court of its discretion on the substantive application in the event that any ground of review is made out. However, in and of itself, that is not a reason to grant interim relief; particularly where the reversals are underway in any event and where, despite opportunities to do so, no RCAs have joined the proceeding to indicate any issues on their part one way or another.[39]

[42] For all of these reasons, I cannot see that Movement has a position that it is necessary to preserve.

[43] Had I accepted Movement's submission that concerns about public policy settings should go only to the merits of the substantive application, rather than to the threshold question, the same concerns would weigh against the exercise of the Court's discretion in Movement's favour. The merits of the substantive application for review are relevant to the threshold question and the concerns do count against the likelihood of the substantive review's success.[40] Whether viewed through the lens of the threshold question or otherwise, this is not a case in which it would be appropriate for the Court to grant interim relief given the public policy settings at play and the sweeping impacts relief would have.

[44] Despite the threshold not having been met, I go on to consider the other relevant discretionary factors.

The strength of Movement's case

[45] Movement is right to say that the validity of delegated legislation may be challenged on review and that a Court may find that delegated legislation has been

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38 The Minister accepts this to be the case, without prejudice to his ability to oppose substantive relief on grounds going to the Court's discretion.

39 Pursuant to direction given by the Court on 25 February 2025, all RCAs were advised that they could join the proceeding and, in order to do so, were to file applications by 20 March 2025.

40 *MKD v Minister of Health*, above n 24, at [56]. I consider the merits in further detail in the next section of this decision.

made unlawfully if Parliament's delegate has acted in bad faith, or failed to comply with statutory criteria, or pursued improper purposes, or was influenced by irrelevant considerations.[41]

[46] At its heart, Movement's claim is that to increase speed limits must affect the lawfulness of the underlying rule. The overarching difficulty with Movement's position is that the matters to which the Minister is to have regard under the Act when making rules are framed in a particularly broad way.[42] The Act does not prescribe parameters, or a yardstick, for an assessment of lawfulness in relation to making road safety rules leaving, really, a *Wednesbury* unreasonableness approach.[43]

[47] And that is a difficult position to sustain when the 2024 Rule has followed a process of consultation and results in speed limits that are commonplace at international level.

[48] That said, I comment briefly on each of the eight grounds of review.

[49] The first ground alleges improper purpose. The decision to adopt the 2024 Rule is said to be inconsistent with the Minister's functions and objectives under ss 169 and 169A of the Act. The allegation is based upon the view that the Rule will make less people safe. However, these broad, general purpose provisions are not such that an allegation of improper purpose could easily be made out.

[50] The second ground is that the Minister failed to take into account relevant consideration or erred in law because an additional exception to the speed limits classification table, which the Minister had earlier considered, was not included in the final rule.[44] However, it has been established in affidavit evidence for the Minister that the Minister had instructed that the exception be removed before making his final decision and an official left the sentence about the exception in the regulatory impact statement by accident.

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41 Professor P A Joseph KC and J McHerron *Laws of New Zealand* Judicial Review of Secondary Legislation: General Principles (online ed, LexisNexis, 4 October 2024) at [163] and [168].

42 The relevant matters are described in para [11] above.

43 *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223.

44 The exception would have allowed NZTA to choose a speed limit between 70 and 90 kmph for interregional connectors with a history of serious road crashes.

[51] The third ground of review alleges a failure to take into account a relevant consideration or an error of law. It is alleged that the Minister failed to take into account the level of risk arising from changes required by the 2024 Rule. It says that only generic advice was received. However, the evidence shows the Minister to have received multiple briefings, including on academic research to which Movement refers. This would appear to be a cause of action that goes to the merits of the decision.

[52] The fourth ground of review alleges a mistake of fact or the taking into account of an irrelevant consideration. It is based upon the content on an information sheet published by the Minister about fatalities on local roads with speed limits of up to 50 km/h having remained relatively unchanged since the reduced speed limits were introduced in 2020. Movement is concerned that the information, sourced from the New Zealand Crash Risk Analysis System, does not support the statement made given shortcomings with the data sets used.[45] Whether a statement made in an information sheet based upon an analysis of data could amount to a mistake of fact or an irrelevant consideration in the decision itself is a difficult proposition.

[53] The fifth ground of review is that the Minister failed to take into account a relevant consideration or erred in law in, allegedly, not having regard to Resolution 11 of the Stockholm Declaration.[46] Section 164(2)(eb) and (f) of the Land Transport Act requires the Minister in making a rule to have regard to – and to give such weight as the Minister considers appropriate to – New Zealand's international obligations concerning land transport safety and the international circumstances in respect of land transport safety. Resolution 11 of the Stockholm Declaration resolves to focus on speed management, including through the use of a 30 km/h limit, in areas where vulnerable road users and vehicles mix in a frequent and planned manner, except where evidence shows that higher speeds are safe. However, while the General Assembly of the United Nations endorsed it, the Stockholm Declaration does not it

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45 It is said that the New Zealand Crash Analysis System data is a simple comparison of fatality rates year by year on all local roads when speeds have been reduced only on a small proportion of them since 2022 with little information on the impact of speed reductions and no consideration of reductions in the case of serious injuries.

46 Chairman, Third Global Ministerial Conference on Road Safety *Stockholm Declaration — Third Global Ministerial Conference on Road Safety: Achieving Global Goals 2030* (Stockholm, 19–20 February 2020); endorsed in *Improving global road safety* GA Res 74/299 (2020) at 5; and endorsed in *Improving Global Road Safety* GA Res 78/290 (2024) at 2.

itself appear to create international obligations. It does not appear to be a legally binding international instrument. The Declaration was, in any event, provided to the Minister before he signed the 2024 Rule.

[54] The sixth ground of review alleges a mistake of fact or the taking into account of an irrelevant consideration. It alleges an understanding on the Minister's part that the 2024 Rule takes a similar approach to the approaches taken in Norway, Iceland, Denmark, Sweden and Japan which have speed limits of 50 km/h on urban roads with exceptions for lower speed limits. However, the Minister's office was provided with accurate information about urban area speed limits in those countries – showing them to include 50 km/h limits, but others also – so it will not be straightforward to show that the Minister was mistaken.

[55] The seventh ground of review is that it was unreasonable and perverse for the Minister to require reversal of permanent speed reductions where one of the reasons for the reduction was the presence of a school in the area. However, the way in which the 2024 Rule works is through the creation of a uniform set of rules relating to schools. Accordingly, if a 30 km/h permanent speed limit outside a school was set on or after 1 January 2020, then that limit will be reversed to the limit that was in place before that date with 30 km/h variable speed limits then applying during school travel periods. I accept that the Rule means that a speed limit will be reversed even if only one of its purposes (among others) was to protect school children and so the other purposes for which the limit was lowered remain. However, whether this approach is "perverse" as alleged in light of the creation of national consistency in similar speed limits is a difficult argument.

[56] In the eighth ground of review it is said that the Minister predetermined an outcome that would reverse the speed limit reductions and, and as a result, made his decision with a closed mind. As Kós J said in *Backcountry Helicopters Ltd v Minister of Conservation*, it is unavoidable that, where Parliament determines that a decision-maker will be a Minister, the person will be influenced by policy and political considerations and that the standards required of public decision-makers performing

quasi-adjudicator roles do not come into play.[47] And, as Cooke J put it in the case from which principles of this type have stemmed in New Zealand – *CREEDNZ Inc v Governor-General* – it would be naive to suppose that Parliament could have meant Ministers to refrain from performing and expressing, even strongly, views on the desirability of projects they are championing until they come to make the statutory decision in question.[48] The requirement in those circumstances is that the Minister does not, when exercising the relevant statutory discretion, have a closed mind.

[57] In this case, the applicant says that the Minister was irretrievably committed to the outcomes achieved through the 2024 Rule such that the level of his predetermination could not be tolerated. The Minister did have a clear policy preference but, as Ms Higbee says, he did make changes to the Rule following public consultation, the development of the Rule evolved (and narrowed) through the policy process, and the statutory criteria applied were broad. Once more, this is a difficult argument for Movement.

[58] It is premature to reach firm conclusions on the applicant's case but it can be said at this point that the chance of the applicant succeeding is not at a level that would weigh in favour of the exercise by the Court of its discretion in favour of granting interim relief.

Other discretionary factors

Delay

[59] Public consultation on the 2024 Rule began in June 2024. Movement took part in the consultation process. The 2024 Rule was made and announced on 28 September 2024 and came into force on 30 October 2024. Movement filed its judicial review proceeding on 16 January 2025. As filed, it did not seek interim orders and sought only that the 2024 Rule be quashed. An amended statement of claim and the application for interim relief were filed on 6 March 2025. This was just too late.

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47 *Back Country Helicopters Ltd v Minister of Conservation* [2013] NZHC 982, [2013] NZAR 1474 at [131].

48 *CREEDNZ Inc v Governor-General* [1981] 1 NZLR 172 at 179.

[60] Movement makes the point that, initially, it took the view that its objectives could be achieved through seeking a priority fixture for the substantive hearing in May or June 2024 and without the need to seek interim relief. However, as counsel for the Crown observed in communications with counsel for the plaintiff and in case management memoranda in February 2025, the relief that was sought – quashing the 2024 Rule – would not be effective where the reversals were then already well underway and needed, under the 2024 Rule, to be with NZTA by 1 May 2025. Accordingly, the Crown was not in a position to support a timetable leading to a hearing before 1 July 2025 as the applicant had sought. Against that background, Movement decided to file an application for interim orders – alongside an amended statement claim – early last month.

[61] The delay is not, in and of itself, determinative but it contributes to the difficulties that Movement has in establishing a position to preserve and to persuade the Court, when considering discretionary factors more broadly, that the balance of convenience and overall justice should favour its position.

Public interest consequences

[62] Moreover, the filing of an application for interim orders six months after the relevant Rule was announced, and in order to halt a national programme of works, has real public interest consequences.

[63] The 1 July 2025 deadline for the implementation of the speed limits could not be met. The speed limit reversals are not achieved just through the turn of a dial. As NZTA's programme director has explained, the changes require a substantial programme of work, both through changes to the register and then physical changes are needed to design and install the relevant infrastructure. To hold that work now until a decision on the substantive judicial review might be available later in the year would cause significant disruption, not only to costing and resourcing, but in view of the fact that other priority road work – such as summer road sealing and maintenance activity – can only be undertaken later in the year when the road temperatures are at a certain level.

[64] Furthermore, pushing a ‘dead stop’ button now would result in real confusion for those RCAs who have submitted speed limit reversals under the 2024 Rule. Some of the reversals submitted have been registered by NZTA and are in place while others are still being processed. Accordingly, in a given location, inconsistency and confusion may result.

[65] Movement says that interim orders would avoid wasted effort in the event of their ultimate success. I accept that to be the case. However, having balanced the relevant discretionary factors, the overall justice does not in my view favour a grant of interim relief.

Outcome

[66] Movement’s application for interim orders is declined.

[67] The respondents are entitled to costs. The level of costs and whether a single award would be appropriate is to be the subject of memoranda. In the absence of agreement on costs being able to be reached between the parties, the respondents may file memoranda within 10 working days of the date of this decision and Movement may file any memorandum in response within a further five working day period. Any such memoranda, including schedules, should not exceed five pages in length.

Radich J

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