



THE HIGH COURT OF NEW ZEALAND TE KŌTI MATUA O AOTEAROA

21/03/2025

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Roa v Wellington City Council CIV-2024-485-302 [2025] NZHC 609

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 www.courtsofnz.govt.nz.

What this judgment is about

This judgment decides whether the rainbow crossing on Dixon Street where it meets Cuba Mall in Wellington’s CBD is installed in accordance with the rules governing road markings and traffic control devices (the TCD Rule).

Background

On 9 October 2018, Wellington City Council installed a rainbow crossing to celebrate LGBTQIA+ pride and diversity in the city. The TCD Rule regulated road markings. Markings for advertising or without a purpose connected to the use of the road were not permitted. In 2020, the TCD Rule was amended to include provisions about “roadway art”. In 2021, the Deputy-Director of Land Transport determined the rainbow crossing was compliant with the amended TCD Rule.

The applicants’ claim

The applicants, a group of concerned ratepayers, argued the crossing was a safety risk, as it resembled a zebra crossing, was located on a road where many vehicles exceed 30km/h, and was likely to mislead or confuse drivers and pedestrians.

Decision

Was the rainbow crossing lawful under the 2018 rules?

McHerron J decided the first, and most important, question in the case was whether the crossing was legal when it was installed. The applicants, WCC, and Waka Kotahi had focused on the

2020 Amended TCD Rule, but the Court was guided by the key principle that laws should not apply retrospectively. If the crossing was legal when it was installed, and the Amended Rule did not apply to already installed road markings, then it is the TCD Rule as at 2018 that applies when considering the lawfulness of the rainbow crossing.

In considering whether the rainbow crossing was permitted by the TCD Rule in place in 2018, McHerron J concluded the rainbow markings served a purpose connected with the use of the road, and the additional purpose of supporting and celebrating LBGTQIA+ pride did not compromise safety.

Having regard to the additional safety features such as speed cushions, and a report by Stantec New Zealand, which highlighted there was a “high level” of safety at the location, the Court concluded the rainbow crossing did not resemble a Zebra crossing and does not mislead road users about its meaning.

Although unnecessary to the decision, the Court assessed whether the rainbow crossing complied with the 2020 amendment to the TCD Rule and found it complied.

Result

The application is dismissed. The Court did not make the declarations sought by the applicants against WCC or Waka Kotahi.