

**IN THE HIGH COURT OF NEW ZEALAND
I TE KŌTI MATUA O AOTEAROA**

CIV-2025-485-

**WELLINGTON REGISTRY
TE WHANGANUI-A-TARA ROHE**

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, a charitable trust having its registered office at 355 Foster Road, RD 1, Waimauku, Kumeu, Auckland

Applicant

AND Minister of Transport, a Minister of the Crown having responsibilities under the Land Transport Act 1998, Parliament Buildings, Wellington

Respondent

Statement of Claim for Judicial Review

Dated 16 January 2025

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PARTIES

1. The applicant is Movement, a trust incorporated under the Charitable Trusts Act 1957. The applicant is an advocate for safe and sustainable transport.
2. The applicant brings this proceeding in the public interest, having regard to serious social and economic harm caused by transport-related deaths and serious injuries in New Zealand.
3. The respondent is the Minister of Transport, a minister of the Crown having responsibilities under the Land Transport Act 1998 (“Act”) including the power and function to make rules for specified transport-related purposes.

DECISION CHALLENGED BY THIS APPLICATION FOR JUDICIAL REVIEW

4. Road controlling authorities (“RCAs”) set speed limits for roads under their control. The New Zealand Transport Agency Waka Kotahi (“NZTA”) is the RCA for state highways. Local councils and Auckland Transport are RCAs for local roads.
5. A general rule under the Act may be used to set the framework for how RCAs must set speed limits.
6. This application challenges the decision by the respondent to make the Land Transport Rule: Setting of Speed Limits 2024 (“2024 Rule”).
7. The decision was made on or about 28 September 2024 and the 2024 Rule took effect from 30 October 2024.

FACTS UPON WHICH THE APPLICATION IS BASED

International land transport context

8. An international declaration referred to as the Stockholm Declaration was made at the Third Global Ministerial Conference on Road Safety at Stockholm on 19-20 February 2020.
9. The Stockholm Declaration includes a resolution to:
 11. *Focus on speed management, including the strengthening of law enforcement to prevent speeding and mandate a maximum road travel speed of 30 km/h in areas where vulnerable road users and vehicles mix in a frequent and planned manner, except where strong evidence exists that higher speeds are safe, noting that efforts to reduce speed in general will have a beneficial impact on air quality and climate change as well as being vital to reduce road traffic deaths and injuries;*

10. The United Nations General Assembly adopted resolution 74/299 *Improving global road safety* ("Road Safety Resolution") on 31 August 2020. The Stockholm Declaration was endorsed by the United Nations General Assembly in the Road Safety Resolution.
11. The Stockholm Declaration was endorsed again by the United Nations General Assembly through resolution A/78/290 *Improving Global Road Safety* on or about 3 June 2024.

New Zealand speed reductions

12. In 2018, road deaths were the second largest cause of death from injury in New Zealand and more than half of major trauma injuries treated in New Zealand hospitals related to road crashes.
13. In 2019, the previous Government adopted "Road to Zero", a road safety strategy for 2020-2030, aimed at reducing deaths and serious injuries from road accidents, including by implementing global best practice speed limits.
14. In addition, some RCAs initiated their own reviews and responses to increasing road deaths and serious injuries in their regions. For example, Auckland Transport commissioned a review in 2017 that resulted in the Safe Speeds Programme, which it commenced to implement in June 2020.
15. The Land Transport Rule: Setting of Speed Limits 2022 ("2022 Rule") was a general rule made under the Act which applied from 19 May 2022 to 28 September 2024 and which (inter alia):
 - a. Specified that the maximum permitted speed limit for a road outside a category 1 school was a (permanent or variable) limit of 30 km/h, and that the maximum permitted speed limit for a road outside a category 2 school was a (permanent or variable) limit of 60 km/h.
 - b. Did not specify a speed limit for each road type, but required NZTA to develop and maintain guidance on speed management, including NZTA's assessment of the safe and appropriate speed limit for a road under the control of an RCA, and required RCAs to have regard to the guidance when setting or changing speed limits.
16. Pursuant to the 2022 Rule, NZTA developed guidance on speed management, which included NZTA's assessment of safe and appropriate speed limits ("NZTA Guidance"). The NZTA Guidance specified that the safe and appropriate speed limits are:

- a. 30 km/h for local streets, activity streets and main streets (i.e. urban or residential streets), with the potential for a 40 km/h limit for some streets if specified criteria applied.
 - b. 80 km/h for interregional connectors (i.e. rural state highways), with the potential for 60 – 110 km/h if specified criteria for lower or higher limits applied.
17. In accordance with those matters, between 2020 and 2024 RCAs reduced speed limits on many roads to align with safe and appropriate speed limits.

Development of Land Transport Rule: Setting of Speed Limits 2024

18. National and ACT party policies and their coalition agreement included policies relating to reversing speed limit reductions that had been implemented since 2020.
19. In 2023 and 2024, the Ministry of Transport (“Ministry”) and the respondent developed a draft Land Transport Rule to implement the Government’s policy intent.
20. On 21 March 2024, the respondent announced that Cabinet had agreed on the Government’s direction of travel for a new Land Transport Rule which would reverse “the previous government’s blanket speed reductions”.
21. On the same day the respondent gave a speech which included the statement that before the end of 2024 he would sign a new Rule into force requiring RCAs across the country to reverse “blanket speed limit reductions” by the end of 2025.
22. The Ministry produced an initial Regulatory Impact Statement dated 1 May 2024 comparing the status quo and the impacts of the changes proposed in the draft Rule.
23. The draft Rule was published for public consultation on 13 June 2024. Submissions on the draft Rule were received over a period of four weeks until 11 July 2024.
24. On 7 July 2024, the respondent emailed people on a National Party distribution list. The email subject was “Make your voice heard to reverse Labour’s blanket speed limit reductions across the country”. It said that National would reverse blanket speed limit reductions and encouraged recipients “to make your voice heard to reverse Labour’s blanket speed limit reductions across the country”.
25. The Ministry received 8,180 submissions on the draft Rule.

26. The Ministry produced a final Regulatory Impact Statement dated 28 August 2024.
27. On or about 12 September 2024, the Office of the Minister of Transport produced a paper updating the Cabinet Economic Policy Committee on the outcome of public consultation on the draft Rule, and seeking agreement to changes to some parts of the draft Rule.
28. The Cabinet Expenditure and Regulatory Review Committee agreed to changes to the draft Rule on 17 September 2024.
29. The Ministry produced an advice paper dated 25 September 2024 which:
 - a. annexed the final 2024 Rule;
 - b. annexed a summary of submissions received;
 - c. advised the respondent that before making the Rule he was required to have regard to, and give such weight as he considered appropriate to, the matters in s 164(2) of the Act;
 - d. listed some of the s 164(2) matters and provided a yes/no option for the respondent to annotate;
 - e. provided comment on each of the matters to be considered under 164(2);
 - f. recommended that the respondent sign the 2024 Rule by 30 September 2024.
30. On or about 28 September 2024, the respondent:
 - a. Circled "yes" on those s 164(2) matters that were listed in the advice paper with a yes/no option, and signed the advice paper.
 - b. Signed the 2024 Rule.
31. Also on or about 28 September 2024, the respondent produced a media release which stated (inter alia) that:
 - a. "Over 65 per cent of submitters supported our plan to reverse the previous government's blanket speed limit reductions in the draft speed limit rule."
 - b. "Throughout the world, 50km/h is used as the right speed limit to keep urban roads flowing smoothly and safely. The evidence on this is clear – comparable countries with the lowest rates of road deaths and serious injuries, such as Norway, Denmark, and Japan, have speed limits of 50km/h on their urban roads, with exceptions for lower speed limits."

32. The media release contained a link to an information sheet. The information sheet stated (inter alia):
- a. "The highest-income countries [referencing Norway, Iceland, Denmark, Sweden and Japan] that have the lowest rates of road deaths all have speed limits of 50km/h on urban roads, with exceptions for lower speed limits. The Land Transport Rule: Setting of Speed Limits 2024 takes this approach, standardising speed limits of 50km/h on urban streets, with exceptions for higher-risk urban environments."
 - b. "Despite the previous government's blanket speed limit reductions, fatalities on local roads with speed limits up to 50km/h have remained relatively unchanged since these reduced speed limits were introduced from 2020."

The 2024 Rule

Specified permanent speed limits

33. Rule 4.5(1) and Schedule 3 (Speed Limit Classifications) of the 2024 Rule specify permanent speed limits by road type. The specified speed limits include:
- a. For urban streets, a minimum 50km/h speed limit (except that provision is made for optional lower limits for "civic spaces", which have a 10 – 20 km/h speed limit, "urban streets with significant levels of pedestrian and/or cycling activity", which have a 40 km/h speed limit, "urban streets with no footpaths", which have a 40 km/h speed limit, and "urban intersection speed zones" which are intersections that have a history of high risk crash types, which have a 30 – 70 km/h speed limit).
 - b. For interregional connectors, a minimum 100km/h speed limit, (except for mountainous or hill corridors, for which provision is made for optional lower limits of a 60 – 80 km/h).
34. For those road types, there is no discretion for RCAs to adopt lower permanent speed limits other than those set out above.
35. Two effects of Rule 4.5(1) and the Speed Limit Classifications are that RCAs:
- a. Cannot set a permanent speed limit of 30 km/h on any urban streets.
 - b. Cannot set a permanent speed limit of 80 km/h on interregional connectors that are not mountainous or hill corridors.

Speed limits around schools

36. Rule 5.1 requires RCAs to set a variable speed limit of 30 km/h for a road outside the school gate of a category 1 school, where “road outside the school gate” means a 300m section of road immediately adjacent to a gate or other access used by students to enter or leave the school.
37. Rule 5.2 requires RCAs to set a variable speed limit of 60 km/h for a road outside the school gate of a category 2 school, where “road outside the school gate” means a 600m section of road immediately adjacent to a gate or other access used by students to enter or leave the school.
38. For both Rule 5.1 and Rule 5.2, the variable speed limit applies during the school travel period only, which:
 - a. means a period of no more than 45 minutes before and after the start and end of the school day; and
 - b. may also include one or more periods of not longer than 10 minutes during the school day, when significant numbers of children are crossing the road or entering or leaving vehicles at the side of the road (Rule 5.3).
39. Two effects of Rules 5.1, 5.2 and 5.3 are that RCAs:
 - a. Cannot choose to implement a 30 km/h speed limit in the wider vicinity of category 1 schools, or a 60 km/h speed limit in the wider vicinity of category 2 schools, such as on routes where children walk or bike to school.
 - b. Cannot implement a 30 km/h speed limit for any longer than the specified school travel period.

Reversal of speed limits set since 2020

40. Rule 11.2 requires that speed limit reductions that have been implemented since 1 January 2020 must be reversed by 1 July 2025:
 - a. where RCAs have set a permanent speed limit of 30 km/h and one of the reasons for setting that speed limit is that there is a school in the area; and
 - b. where RCAs have set a permanent speed limit for an urban connector or interregional connector since 1 January 2020 that is lower than the previous speed limit (with provision for lower interregional connector speeds to be retained where NZTA is satisfied through consultation that there is public acceptance for the lower speed limit).

41. One effect of Rule 11.2 is that where a permanent speed limit of 30 km/h was set for several reasons (one of which was the presence of a school), the speed limit reduction must be reversed despite there being other reasons for setting the 30 km/h speed limit.

Grounds of review and relief

First ground of review: Improper purpose

42. The respondent was advised by the Ministry that the safety impact of the 2024 Rule was “likely increased risk of fatal and serious injury crashes, through reversing certain reduced speed limits”.

43. The decision to adopt the 2024 Rule was inconsistent with the respondent’s objectives under s 169 of the Act and his functions under s 169A of the Act, and the decision was therefore inconsistent with the proper statutory purpose of the respondent’s power to make general rules under the Act.

Relief

44. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Second ground of review: Failure to take into account a relevant consideration / error of law

The applicant repeats paragraphs 1 - 41 and says:

45. The final Regulatory Impact Statement states that the respondent agreed to a change to the draft Rule to:

Include an additional exception to the speed limits classification table to allow for interregional connectors with a history of serious road crashes to have speed limits reduced to between 70km/h and 90 km/h

46. The 2024 Rule does not include such an exception.

47. The respondent’s consideration of the effect of the 2024 Rule is premised on the 2024 Rule including that exception.

48. In having regard to the mandatory relevant considerations in s 164(2) of the Act, the respondent failed to take into account the effects of the 2024 Rule without that exception.

Relief

49. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Third ground of review: Failure to take into account a relevant consideration / error of law

The applicant repeats paragraphs 1 - 41 and says:

50. The respondent was required to take into account “the level of risk existing to land transport safety in each proposed activity or service” (s 164(2)(a)) and “the level of risk existing to land transport safety generally” (s 164(2)(c)).
51. The respondent’s consideration of the level of risk existing to land transport safety under ss 164(2)(a) and (c) was limited to:
 - a. a summary of research on the relationship between speed and the risk of fatal and serious crashes; and
 - b. a statement that “reversing reduced speed limits would likely result in an increase in the average speed on these roads”.
52. The respondent failed to take into account “the level of risk existing to land transport safety” arising from the specific changes required by the 2024 Rule, in particular:
 - a. Speed Limit Classifications that require a minimum speed limit of 50 km/h for local roads and 100 km/h for interregional connectors (except where one of the exceptions described in paragraph 33 above applies).
 - b. Not allowing RCAs to reduce speed limits (or retain reduced speed limits) in the vicinity of schools, and instead requiring variable speed limits that apply only “outside the school gate”.
 - c. Requiring RCAs to increase speed limits that have been reduced since 1 January 2020.
53. The respondent erred in law in his consideration of s 164(2)(a) and (c) by considering only the relationship between increased speed limits,

average speed and risk of fatal and serious crashes, and not the level of risk to land transport safety resulting from the 2024 Rule.

Relief

54. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Fourth ground of review: Mistake of fact / irrelevant consideration

The applicant repeats paragraphs 1 - 41 and says:

55. The respondent's decision to make the 2024 rule was affected by a mistake of fact and/or took into account an irrelevant consideration..

56. The respondent relied on information that "fatalities on local roads with speed limits up to 50km/h have remained relatively unchanged since these reduced speed limits were introduced from 2020."

57. The information in paragraph 56:

- a. Was wrong, in that fatalities substantially reduced on local roads where speed limits below 50 km/h had been introduced since 2020.
- b. Failed to take into account that serious injuries also substantially reduced on local roads where speed limits below 50 km/h had been introduced since 2020.

Relief

58. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Fifth ground of review: Failure to take into account a relevant consideration / error of law

The applicant repeats paragraphs 1 - 41 and says:

59. The 2024 Rule includes Speed Limit Classifications for road types, which generally do not allow an RCA to set a permanent speed limit of 30 km/h.

60. The Stockholm Declaration includes a resolution to:

11. Focus on speed management, including the strengthening of law enforcement to prevent speeding and mandate a maximum road travel speed of 30 km/h in areas where vulnerable road users and vehicles mix in a frequent and planned manner, except where strong evidence exists that higher speeds are safe, noting that efforts to reduce speed in general will have a beneficial impact on air quality and climate change as well as being vital to reduce road traffic deaths and injuries;

61. Resolution 11 of the Stockholm Declaration was a mandatory relevant consideration under s 164(2)(eb) and/or s 164(2)(f) that the respondent failed to take into account in making the 2024 Rule.

62. In the alternative, the respondent erred in law in his consideration of New Zealand's international obligations concerning land transport safety under s 164(2)(eb) and/or the international circumstances in respect of land transport safety under s 164(2)(f) (to the extent that the respondent considered s 164(2)(f) at all) by relying on advice:

- a. that amending the 2024 Rule would have no direct impact on New Zealand's international obligations for land transport safety;
- b. that there are international declarations and resolutions, and the UN Sustainable Development Goals, that focus on road safety, including the Stockholm Declaration which invite, encourage and call on Member States to take various actions, but which do not create binding international obligations in relation to setting speed limits; and
- c. which did not inform him that Resolution 11 mandates a maximum road travel speed of 30 km/h in areas where vulnerable road users and vehicles mix in a frequent and planned manner, except where strong evidence exists that higher speeds are safe; and
- d. which did not inform him that the Stockholm Declaration was re-endorsed by the United Nations General Assembly through

resolution A/78/290 *Improving Global Road Safety* on or about 3 June 2024.

Relief

63. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Sixth ground of review: Mistake of fact / irrelevant consideration

The applicant repeats paragraphs 1 - 41 and says:

64. In deciding to make the 2024 Rule, the respondent took into account that Norway, Iceland, Denmark, Sweden and Japan have speed limits of 50km/h on urban roads with exceptions for lower speed limits, and considered that the 2024 Rule took the same approach.

65. The respondent made a mistake of fact and/or took into account an irrelevant consideration. Road controlling authorities in those countries are authorised to lower the 50 km/h limit to 30 km/h, and have done so for many streets (for example, since 2004, Stockholm (Sweden) has had 30 km/h limits on all residential streets).

66. The 2024 Rule does not allow permanent speed limits of 30 km/h or less on urban roads (other than civic spaces), which is not the same approach as is taken in Norway, Iceland, Denmark, Sweden and Japan.

Relief

67. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

Seventh ground of review: unreasonable decision

The applicant repeats paragraphs 1 - 41 and says:

68. Under Rule 11.2, where a permanent speed limit was set for more than one reason and one of the reasons for setting the speed limit was that

there is a school in the area, the speed limit reduction must be reversed despite there being other reasons for setting the 30 km/h speed limit.

69. It was unreasonable and perverse for the respondent to require permanent speed limit reductions to be reversed in circumstances where:
- a. The effect of the 2024 Rule is that RCAs are only required to reverse a permanent speed limit if its purpose or one of its purposes was to protect school children.
 - b. Further or alternatively, where there were other reasons for the reduced speed limit, those other reasons remain and are not addressed or mitigated by the 2024 Rule.
70. The applicant seeks the following relief:
- a. An order quashing the decision to make the 2024 Rule.
 - b. An order quashing the 2024 Rule.
 - c. An order that the 2022 Rule remains in force.
 - d. Any other such orders as the Court thinks fit.

Eighth ground of review: Predetermination / failure to consult and consider submissions

The applicant repeats paragraphs 1 - 41 and says:

71. The respondent was committed to requiring RCAs to reverse speed limit reductions implemented since 2020.
72. The respondent approached his assessment of the mandatory relevant considerations and the decision to make the 2024 Rule, and in particular those parts of the 2024 Rule that would increase speed limits by requiring RCAs to reverse speed limit reductions implemented since 2020 and instead implement the Speed Limit Classifications, with a closed mind.
73. As a result, the respondent:
- a. Failed to consult and consider submissions as required by s 161, by not bringing an open mind to consideration of submissions seeking the ability for RCAs to retain speed limits reduced since 1 January 2020.
 - b. Predetermined the decision to require RCAs to reverse speed limit reductions made since 2020 and instead implement the Speed Limit Classifications.

Relief

74. The applicant seeks the following relief:

- a. An order quashing the decision to make the 2024 Rule.
- b. An order quashing the 2024 Rule.
- c. An order that the 2022 Rule remains in force.
- d. Any other such orders as the Court thinks fit.

This Statement of Claim is filed by Jack Cundy, solicitor for the applicant.

Documents for the applicant may be served at 41 Sherwood Ave, Grey Lynn, Auckland, or may be emailed to jack@jackcundy.co.nz and copied to sally@sallygepp.co.nz, with service by email to be complete on acknowledgement (not being an automated reply).