

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 81/2025
[2025] NZSC 114

BETWEEN TONY JAMES SOFUS PASCOE AND
DEBBIE ANN PASCOE
Applicants

AND MINISTER FOR LAND INFORMATION
Respondent

Court: Glazebrook, Ellen France and Miller JJ

Counsel: Applicants in person
R L Roff, J M Prebble and E S Harris for Respondent

Judgment: 10 September 2025

JUDGMENT OF THE COURT

- A The application for leave to file reply submissions is dismissed.**
- B The application for leave to appeal is dismissed.**
- C The applicants must pay the respondent one set of costs of \$2,500.**
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REASONS

Application for leave to appeal

[1] The applicants seek leave to appeal directly from a decision of the High Court which dismissed an appeal against the Environment Court's dismissal of the

applicants' objection to the compulsory acquisition of part of their land for a roading project.¹ That appeal was limited to questions of law.²

[2] This Court has, in a separate proceeding, granted the applicants leave to appeal on the issue whether negotiations prior to the compulsory acquisition of land for essential works, under s 18 of the Public Works Act 1981, may be undertaken by an accredited contractor rather than by the Minister personally (or an official of Toitū Te Whenua | Land Information New Zealand with delegated authority by the Minister).³

[3] The applicants essentially submit that the lawfulness of the subsequent acquisition can only be properly determined once this Court decides the issue upon which it has granted leave, as that may in turn affect the validity of the negotiations conducted prior to the acquisition. There is otherwise a risk of a substantial miscarriage of justice. The applicants also identify various other issues with the decision-making process which led to the acquisition, and they say these issues are of general and public importance.

[4] The possibility that the outcome of the appeal in which the Court has granted leave may affect the lawfulness of the subsequent acquisition cannot be ruled out. However, the substance of the proposed appeal is a challenge to the substantive merits of the decision to acquire the land. To the extent the application raises any arguable question of law, we are not persuaded there are exceptional circumstances which justify this Court hearing the appeal without the benefit of any views of the Court of Appeal.⁴

[5] The applicants sought leave to file reply submissions, but nothing in them alters our conclusions. Those submissions can be raised in the Court of Appeal. Leave to file them is declined. We also decline the request for an oral leave hearing.

¹ *Pascoe v Minister for Land Information* [2025] NZHC 1782 (McQueen J). See *Pascoe v Minister for Land Information* [2024] NZEnvC 101.

² Public Works Act 1981, s 24(14); and Resource Management Act 1991, s 299.

³ *Pascoe v Minister for Land Information* [2025] NZSC 54.

⁴ Senior Courts Act 2016, s 75(b).

Application for urgency

[6] The respondent has asked that this Court urgently decide the leave application by directing a shortened timetable for submissions and then determining the application promptly on the papers.⁵ We previously directed that we would deal with this application at the same time as the leave application.

[7] The respondent says that access is required by the end of September to avoid any impact to the 2025/2026 construction season. He says that urgent final resolution of this proceeding will therefore minimise significant additional financial and social costs to the taxpayer.

[8] The correctness of that submission is unclear. The evidence before us therefore does not establish a need for urgency as the determination of the leave application will not affect the formal position. The applicants may also still seek the leave of the Court of Appeal. For these reasons, we dismiss the application for urgency.

Result

[9] The application for leave to file reply submissions is dismissed.

[10] The application for leave to appeal is dismissed.

[11] The applicants must pay the respondent one set of costs of \$2,500.

Solicitors:
Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent

⁵ See Supreme Court Rules 2004, r 5.