IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 74/2026
[2026] NZSC 157

BETWEEN	KATHARINE JONES AND CHARLES WEDD Applicants
AND	ENVIRONMENTAL PROTECTION AUTHORITY First Respondent
	KINGS QUARRY LIMITED Second Respondent

Court:	Ellen France, Williams and Kós JJ
Counsel:	M C Wright, S Johnston and A J R Sinclair for Applicants N M H Whittington for First Respondent D J Minhinnick and S A Kilgour-Bluck for Second Respondent
Judgment:	23 October 2026

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicants must pay the second respondent costs of $4,850.

REASONS

Introduction

[1] This is an application for leave to appeal under s 99(3) of the Fast-track Approvals Act 2024 and ss 73–76 of the Senior Courts Act 2016. In accordance with the Fast-track Approvals Act, the proposed appeal would be a direct appeal from the

decision of the High Court dismissing the applicants' appeal and applications for judicial review.[1]

Background

[2] The proposed appeal arises out of a decision of an expert consenting panel under s 81 of the Fast-track Approvals Act to grant resource consents and wildlife approvals to the second respondent to enable the expansion of the operation of the Kings Quarry at Wainui. The approval will enable the extraction of 500,000 tonnes of aggregate per year for a 45-year period in an operation involving, amongst other matters, reclamation, groundwater diversion, significant ecological area (SEA) vegetation, and the rehousing of native lizards. The applicants are adjacent landowners to the Quarry.[2]

The proposed appeal

[3] The applicants say the proposed appeal raises three matters of general and public importance as follows:[3]

(a) the interpretation of s 46 of the Fast-track Approvals Act, which addresses whether a project is a "substantive application" within the scope of the Act and accordingly within the panel's jurisdiction;

(b) how the expert consenting panels are required to consider independent expert reports provided in evidence when those reports raise matters relevant to assessing "the extent of the project's regional or national benefits";[4] and

(c) the extent to which panels must provide reasons for their decision on a project's benefits when there is competing expert evidence.

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1 *Jones v Environmental Protection Authority* [2026] NZHC 1872 (Blanchard J) [HC judgment].
2 The first respondent abides the decision of the Court on the application for leave.
3 Senior Courts Act 2016, s 74(2)(a).
4 As required by ss 81 and 85 of the Fast-track Approvals Act 2024 and see sch 5 cl 17 and sch 7 cl 5.

Scope

[4] The first issue arises in this way. Schedule 2 of the Act lists proposals eligible to apply for substantive approval. The list includes "Kings Quarry Expansion—Stages 2 and 3". While the name indicates this listing is for stages 2 and 3, the approval sought was for stage 2 only. The Panel concluded that it had jurisdiction to consider the application for approval. That decision was upheld by the High Court on appeal.

[5] In dismissing this aspect of the judicial review proceeding and the appeal, the High Court accepted that a project could not be larger than that listed in sch 2, but the Court considered the position was different when the project was a reduced one. Essentially, the Judge concluded that the project description in sch 2 did not set "an inner limit".[5]

[6] The applicants wish to argue that this project is not the project as described in the Schedule but is for half of the area described in the Schedule, and for a different lifespan and yield. They submit that while the terms used in sch 2 allow for some flexibility, an application must still be for the listed project. That is because whether a proposal is eligible for approval under the Act is a decision having significant implications, given the statutory removal of the procedural protections that would otherwise apply.

Consideration of material filed by the applicants

[7] The second proposed appeal ground arises as follows. The applicants made comment as provided for by the Act. Their comments were accompanied by two reports, one from Urban Economics Ltd and the other from Pattle Delamore Partners Ltd. Kings Quarry responded, as the Act also provides for, with a report by Aggretech Ltd.

[8] As the High Court explained, it was accepted that this project did not have national benefits. The issue was therefore whether, and to what extent, it had regional benefits. As the Judge said, the Pattle Delamore Partners' report and the

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5 HC judgment, above n 1, at [34]–[35] and see at [36], [38] and [39].

Aggretech report were both relevant to the extent and quality of the aggregate resource on site. The Pattle Delamore report put in contention, in various ways, the extent and quality of that aggregate. The Aggretech report responded to the Pattle Delamore report. As the High Court recorded, the applicants said that "as quarries are only as good as their resource, the extent and quality of the aggregate resource were critical to determine the extent of the project's benefit".[6] The other report from Urban Economics put the economic benefits of the project in contention. The Judge explained that it did so in a number of ways, including by critiquing the discount rate, per-kilometre freight costs, transport savings, and aggregate yield which had been used by Kings Quarry's economic advisor.

[9] The Panel concluded that the project would have regional benefits, namely, in supporting development — including infrastructure — in the Auckland region. In this regard, the Panel noted that it was well understood that there was a need for aggregate materials. As the High Court said, in reaching that conclusion, the Panel's decision (some 114 pages plus appendices) does not expressly refer to any of the three reports. Nor does it include findings about the specific matters of contention raised in those reports. The applicants say that as a result, it is plain that the Panel has not considered mandatory relevant considerations. In rejecting this contention, the High Court noted that the statutory requirement in s 81(2)(a) was for the Panel to "consider" the application along with any advice, report, comment or other information received. Having looked closely at the Panel's decision, the Judge concluded that it was plain the Panel had regard to the material in the reports.

Adequacy of the reasons

[10] We turn then to the final proposed ground of appeal. In rejecting the applicants' argument that the Panel did not provide adequate reasons, the High Court considered that what was required by s 87 of the Fast-track Approvals Act was for the Panel "to give reasons for its decision which must include its main factual findings on the principal issues in contention".[7] In this respect, the Court took the view that the specific matters of contention raised by the three reports were relevant to sub-issues

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6 At [49].

7 At [72], distinguishing this case from *Belgiorno-Nettis v Auckland Unitary Plan Independent Hearings Panel* [2019] NZCA 175, [2019] 3 NZLR 345.

rather than directly relevant to the principal issue in contention, namely, whether the project had regional benefits. It was also relevant that under s 10 of the Fast-track Approvals Act, the Panel was required to work subject to strict timelines, and to consider a large volume of material. Giving reasons on sub-issues of this nature would essentially make that task difficult.

Our assessment

[11] The Court, in reaching the conclusion the project was within scope, relied on the fact that many of the projects in the Schedule were described using language suggesting there was no inner limit. Further, the Court found that the Fast-track Approvals Act envisages that projects will be modified as they progress. The Court also considered that if there was an inner limit, that would have practical consequences that Parliament could not have intended. Namely, to require an application to be for a project of exactly the same scope as that described. Nothing raised by the applicants calls into question this assessment which focuses on the text and purpose of the statute.

[12] Further, there is merit in the submission for the second respondent that the scope issue raised by the first proposed ground of appeal is arguably self-limiting in practice. Projects ultimately need to be found to have regional or national benefits to obtain consent at the substantive application stage. That means, the second respondent observes, that there are incentives on applicants not to reduce the scope of projects unnecessarily. We add that there is also force in the submission for the second respondent that the question as to scope is of less importance now, in any event. That is because the Fast-track Approvals Act has been amended to allow projects to proceed in separate stages and to permit amendments to project descriptions in sch 2.

[13] In terms of the third of the proposed grounds of appeal, the High Court addressed the interpretation of ss 10 and 87 of the Fast-track Approvals Act but did so in the context of the Court's assessment of the relevance of the three reports in this particular case. Nothing raised by the applicants calls into question the latter assessment.

[14] We therefore do not see either of these issues as having sufficient prospects of success to warrant a direct appeal to this Court, albeit in theory questions of general

or public importance may arise about the interpretation of these aspects of the Fast-track Approvals Act.

[15] On the second proposed ground relating to the Panel's consideration of the three reports, the High Court undertook a review of the Panel's decision and concluded it had "considered the material it received (including the three reports)."[8] The Court did not see anything "that calls this claim into question."[9] The Court also said that:[10]

> While there are no findings about the specific matters of contention raised by the reports, as the above review also shows, the decision does reference those matters in various ways.

We do not see it as in the interests of justice for this Court to undertake a review of this, essentially factual, finding. Nor are there any exceptional circumstances justifying a direct appeal in respect of any of the grounds.[11]

Result

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

[17] The applicants must pay the second respondent costs of $4,850.

Solicitors:
Cooper Rapley Lawyers, Palmerston North for Applicants
Isaac Black, Environmental Protection Authority, Wellington for First Respondent
Russell McVeagh, Auckland for Second Respondent

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8 At [65].
9 At [65].
10 At [65].
11 Senior Courts Act, s 75(b).