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Legislation Committee Case-notes - August 2016

Feedback Please! Any Feedback? Drop us a note!

We would appreciate comments and suggestions from members on content, format or information about cases that might be of interest to members but may have not been reported in "Your Environment" or “Alert 24 Land”.

The Case-book Editor Roger Low can be contacted through the National Office, or by e-mail, Roger Low<rlow@lowcom.co.nz>

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Summaries of cases from Thomson Reuter’s "Alert24 – Your Environment" and “Alert24 – Land”.

This month we report on six court decisions covering diverse situations associated with subdivision, development and land use activities from around the country:

- An unsuccessful application for judicial review of refusal by Queenstown Lakes District Council to recommend approval of a property near Arrowtown as a Special Housing Area;
- A case involving long-standing arguments about designation of a major roading route through land in Albany on Auckland’s north shore which had impeded provision of infrastructure to support urban development of the area;
- An unsuccessful attempt by a company acting for telecommunications company to circumvent the process of land subdivision required by the RMA;
- A decision striking out a vexatious appeal against approval of a private plan change in Upper Hutt to re-zone the site of the former animal research centre at Wallaceville for urban uses;
- A successful appeal on a majority decision against refusal of consent to a non-complying subdivision of a property at Lowburn, Central Otago;
- A successful prosecution of a house-moving company for felling protected Pohutukawa trees growing on legal road at Auckland.

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CASE NOTES:

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Ayrburn Farm Developments Ltd v Queenstown Lakes District Council - [2016] NZHC 693

Keywords: High Court; interpretation; judicial review; residential; resource consent

Ayrburn Farm Developments Ltd (“Ayrburn”) applied for judicial review of the decision by Queenstown Lakes District Council (“the council”) not to recommend to the relevant Minister (“the Minister”) a proposal submitted by Ayrburn for a housing development near Arrowtown to be designated a “Special Housing Area (“SHA”) under the Housing Accords and Special Housing Area Act 2013 (“the HASHAA”). At issue was whether the council made an error of law when it decided not to recommend the Ayrburn proposal. In particular, Ayrburn pleaded that the council misinterpreted and undermined HASHAA in several respects including by: misconstruing the HASHAA purpose and taking into account irrelevant considerations under the RMA; and failing to place primary weight on housing affordability as required to do so under the HASHAA.

The Court reviewed the legislative history of the HASHAA, noting that it was enacted for the general purpose of enhancing housing affordability and supply in certain regions identified as having significant housing supply and affordability issues. These regions, listed in sch 1 of the HASHAA, included the Queenstown Lakes region. The process under pt 1 of the HASHAA was

that, as an affected territorial authority, the council could enter into an agreement with the Government to work together to address housing supply and affordability issues in its district, known as a "housing accord". On 23 October 2014 the council, as an "accord territorial authority" entered into a housing accord with the Government. The Governor-General might, upon recommendation by the Minister, declare an area within a scheduled district to be a SHA. Before making such a recommendation, the Minister must have regard to factors such as existing geographic boundaries, the relevant district plan provisions and be satisfied that that there was adequate infrastructure to service any qualifying development in the proposed SHA. The Court noted the considerable significance of the recommendation of the accord territorial authority in the recommendation process. Once an applicant succeeded in having its land designated as a SHA, the provisions of pt 2 of the HASHAA applied, which had significant RMA implications and set up a permissive resource consenting regime designed to facilitate an increase in residential land and housing supply, by making it easier for developers to obtain resource consents for certain qualifying housing developments. Ayrburn's argument was that RMA considerations were not relevant to the pt 1 process under the HASHAA because they were to be considered under pt 2.

In response to the Housing Accord in the present case, the council adopted various policies to guide assessment of potential SHAs for recommendation to the Minister, in order to provide a fair overall assessment, and invited expressions of interest ("EOI") from persons interested in developing SHAs. The council set out the assessment matrix used to evaluate each EOI, which included 10 criteria and their weightings. Ayrburn submitted a EOI, proposing a development of 150 new houses, with community housing, on a 45.7 ha site, about two kilometres from Arrowtown and adjacent to Millbrook Special Resort Zones. The Ayrburn proposal was not among the four finally recommended to the Minister. Reasons given for this included that the proposal fell outside the Urban Growth boundary and that it was more remote from services and facilities.

The Court considered Ayrburn's grounds for review. Ayrburn argued that, when the HASHAA and the Housing Accord were considered together, the council, in deciding whether an area should be recommended as a SHA, was required by the HASHAA's purposes: to give primary weighting to the improvement of housing affordability, including the provision of community housing; and to direct itself that RMA matters would be addressed by pt 2 of the HASHAA only after the SHA had been established. Ayrburn argued that the council erred in law by adopting a decision making process and criteria that did not do these things, which manifested itself in its decision to reject the Ayrburn proposal.

The Court considered whether RMA or "planning" considerations were relevant to making decisions on SHAs. Although the HASHAA did not set out the considerations to be taken into account by the accord territorial authority, the Court stated that this did not mean that its scope was unlimited. Factors which served to limit the authority's considerations included the purpose of the HASHAA which was to enhance housing affordability. This was achieved by softening elements of the RMA for the appropriate areas of land. The Court did not agree with Ayrburn that initially, during the pt 1 process of the HASHAA, RMA considerations should not be taken into account. This was because the Housing Accord and the HASHAA anticipated a collaborative process between the Government and the council and, although the enhancement of housing affordability was important, the HASHAA did not "roll out a blank canvas" so that all areas, however unsuitable, that met the listed criteria must be declared SHAs. The HASHAA gave to both the Minister and the local authority a discretion as to the actual location of areas of land to be recommended, and to that extent planning or RMA matters were always appropriate considerations. Further, the Court found that Ayrburn's argument ran counter to the express requirements of the Local Government Act 2002 which required all decision makers to have regard to a local council's policies and district plans. The Court concluded that there were strong textual clues in pt 1 of the HASHAA that planning matters were relevant in the recommendations to be made. Accordingly, the Court found that the council was entitled to take into account RMA and planning considerations when exercising its discretion in deciding which proposals to recommend to the Minister.

Further, the Court found that Ayrburn's submission that "housing affordability" must be given primary weight was not supported by the HASHAA. The Court found that the council correctly exercised its discretion to weight affordability as it did. Similarly, the Court found that the council's decision did not rely on a flawed report. As a territorial authority, the council was required to exercise its discretion in order to formulate assessment criteria which were fair and objective. The Court found that the council did just that. Further, the scoring mechanism was

only a useful tool to assist the exercise of the council's discretion and was not solely determinative of how the council made its recommendations. Finally, the Court found that the council did not make an associated error of law by treating Ayrburn's proposal as one which was not adjacent to an existing urban area. This was an evaluative assessment that was well within the ambit of the council's discretion. Infrastructure issues were stated in the HASHAA to be a mandatory consideration when recommending an SHA and there were valid infrastructure issues raised regarding the location of Ayrburn's proposal.

The Court found that issues concerning location of a proposed SHA, which may be described as planning or RMA matters, were relevant, permissible considerations for a local authority and the council when exercising its discretion under pt 1 of the HASHAA. The Court was satisfied that the council did not in the present case improperly disregard the true purpose of the HASHAA nor take into account considerations which it was not entitled to. The application for judicial review failed. The council was entitled to costs.

Decision date 13 May 2016; Your Environment 18 May 2016

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North Eastern Investments Ltd v Auckland Transport _ [2016] NZEnvC 73

Keywords: requirement; transportation; road; designation; residential; alternative

This was the decision of the Court relating to the notice of requirement ("the NOR") to enable roading for the development of the Fairview Catchment in Albany, north of Auckland. The NOR went through land owned by Heritage Land Ltd which the company North Eastern Investments Ltd ("NEIL") was responsible for developing. NEIL had been trying, since 2003, to progress intensive and other residential development on the land, of approximately 7.8 ha, ("the NEIL land") and issues had arisen regarding resource consents for the project leading to decisions in the Environment Court. The Court stated that the primary issues were: should a requirement be confirmed under s 171 of the RMA to a route through the NEIL land; and if the assessment of alternatives had not been an adequate consideration of alternatives, should the designation nevertheless be confirmed? The Court stated that, in relation to both issues, the effect on the NEIL land available for intensive residential use was relevant.

The Court reviewed the complex, lengthy background to the proceedings and to the designation. The objectives of the NOR included to facilitate future growth in residential areas, to increase capacity of transport links, and to improve walking and cycling connections. The Court stated that the designation sought to provide a roading corridor over the majority of the length through the NEIL land. Further, the designation extended well beyond the roading corridor, and Auckland Transport ("AT") said it intended that the land beyond the corridor would be surrendered to NEIL once the road was constructed. The designation required NEIL to obtain permissions for works outside the corridor but within the designation, and there was no guarantee that this would be forthcoming. Auckland Council did not object to NEIL works being done in the designated land, but wished to ensure that NEIL did not hinder or prevent the designated works. The current situation was that NEIL had been refused consent for the East-West towers part of its development, but the parties had reached agreement for the land use consent for the part of the development east of that. The Court reviewed the chronology of events to establish the context in which the present NOR might be determined and to explain the inter-relationship of the development issues. The Court acknowledged the history of NEIL's experience with the various regulators, transport agencies and local authorities over the last 10 years had been less than impressive and that it was extremely unfortunate that matters could not have been resolved sooner.

The Court considered the appeal under s 174 of the RMA and the provisions of s 171(1), noting that its consideration of the NOR was subject to pt 2. The Court considered: what was the environment on which the effects were now to be judged; what were the effects on NEIL of the NOR; whether the approach to possible alternatives was adequate, including the benefits and costs; whether there was reasonable necessity for the works; the conduct of the parties; the relevant planning documents provisions applicable; and the pt 2 assessment.

NEIL alleged that the designation had had a major disenabling effect on its use of the NEIL land for intensive residential development. The Court noted previous High Court authority regarding the proper approach to the consideration of alternatives under s 171(1) of the RMA and concluded that consideration of the question of a proportional response to the impact of the designation was appropriate. This meant that the question of sufficiency of consideration of
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alternatives was to be judged by regard to the identified impacts, including that on private land or adverse effects. NEIL submitted that in the present case the consideration of alternatives, including the consideration of Fairview Avenue, had been cursory and inadequate, and that it involved predetermination of the Medallion extension as the preferred option. The Court considered the evidence and found that there were shortcomings in the evaluation of alternatives and there had been a failure fairly to consider NEIL's position, including a failure to consult properly. Given that the designation was to be placed over the NEIL land, the Court found this most unsatisfactory. The Court said it was clear that the planning documents as a whole not only supported intensification of residential development on the NEIL land and within the Fairview catchment, but also required adequate infrastructure facilities, including transport. After consideration of all such matters, the Court concluded that a reduced designation width might be appropriate. Further, the Court found that the 10-year lapse period sought by AT was unsustainable, and that the standard lapse period of five years was appropriate. The Court stated that AT and the North Shore City Council had failed to provide infrastructure at a rate to enable the provisions of housing in the area, and the response of the district plan had been to delay subdivision until such infrastructure was provided. Under pt 2 of the RMA, the Court found it hard to see how this failure to provide infrastructure over a decade fulfilled the purpose of the Act. The Court concluded that the wider area of the designation as sought could have a blighting effect on development of the land for the period until construction was concluded, and so concluded that greater certainty would be provided by providing a reduced designation corridor.

Overall, considering s 171 and pt 2 of the RMA, including a narrower designation and reduced lapse period of five years, the Court was satisfied that the modified designation would meet the purpose of the Act and enable the development of the NEIL land and other land in the Fairview Catchment. The need for an improved road was clear since the 1990s and was now urgent; the failure to construct the road had a significant effect on the area's development. The reduced designation could achieve the purpose of the Act only if it did not conflict with reasonable development of the NEIL land, beyond the infrastructure necessary of the road. There was now no argument that development of the NEIL land was constrained until the road was actually constructed. The Court made directions accordingly. Costs were reserved.

Decision date 24 May 2016 - Your Environment 25 May 2016

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Re Spark New Zealand Trading Ltd - [2016] NZEnvC 115

Keywords: declaration; subdivision; telecom; covenant; interpretation

This was the unanimous decision of two Judges of the Environment Court on an application for a declaration involving the definition of "subdivision" under s 218 of the RMA. The applicants were Spark New Zealand Trading Ltd and Vodafone New Zealand Ltd (together with other suppliers, "the Telcos") who operated cell towers and telemetric transmission towers throughout New Zealand, generally located on sites leased by the Telcos from landowners. Clearspan Property Assets Ltd ("Clearspan"), a s 274 party, approached some such landowners and proposed an arrangement by which Clearspan would become responsible for, and collect all rental regarding, land occupied by the Telcos "the arrangement". This arrangement, which was the subject of the declaration sought, involved: an agreement for sale and purchase and encumbrances registered on the title by way of covenants attached to the agreement for sale and purchase; and the transfer of a share as tenants in common in the title, to be determined by survey plan. The question for the Court was whether such an arrangement constituted a subdivision under s 218 of the RMA.

The Court considered the terms of the arrangement in the case of two specified properties, in Mt Roskill and Waiuku, and addressed the issue of what was required under the provisions of s 218 of the RMA for a subdivision. The Telcos applicants argued that the arrangement comprised a division of an allotment under either s 218(1)(a)(ii) (which referred to the disposition of part of the allotment) or under s 218(1)(a)(iii) (which referred to lease of part of the allotment) of the Act. The Court did not find that that s 218(1)(a)(iii) applied, and so considered whether the division occurred in the present case as a result of: a disposition; by way of sale or of offer for sale and purchase; and for the fee simple to part of the allotment. Regarding the first element, the Court noted that there was no definition in the RMA of "disposition", but, with reference to that word's definition in the Property Law Act 2007, found that it had a broader meaning than merely sale or offer for sale. The Court concluded that the agreement in the
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present case clearly involved disposition beyond the simple transfer of a share in the tenants in common; it also included a series of covenants, agreements to encumbrance, the necessity to obtain exclusive use areas, the survey of the Telco site, and the depositing of the agreement with LINZ. The Court found that the arrangement involved more than simply an inchoate share as tenants in common, and found that it required the creation of an allotment, as defined in s 218(2) of the RMA. Further, the Court stated that without the plan and its survey and deposition, none of the other dispositions contained in the agreement could occur.

In deciding whether the creation of the new allotment came within s 218(1)(a)(ii) of the RMA, the Court took into account not only of the agreement itself, but also the website page of and certain correspondence from Clearspan, which referred to "the subdivision", and to new titles being issued. Further, the Court, took into account the broader intent of s 218, and the wider purpose of s 5 of the RMA, finding that it was clear that the arrangement in this case would have the effect of avoiding any oversight by the consent authorities, and in particular of avoiding the provisions of ss 225 and 226 of the RMA. The Court found that this was the intent of Clearspan in entering the arrangement. It was clearly intended to effect a subdivision in all but the legal sense. The Court listed the key features of the arrangement and stated that division was at the heart of the disposition. When combined, the clear intent and the effect of the arrangement was to achieve a subdivision under s 218(1)(a)(ii) of the RMA, to remove the control by a consent authority through the s 224(c) certificate and to avoid the effect of ss 225 and 226 of the RMA.

While it acknowledged that technical construction of mortgages and encumbrances was beyond its reach, nevertheless, the Court said it was clear that the use of encumbrances to secure promises in perpetuity was not only widely used in New Zealand but also the subject of legal debate.

Accordingly, the Court made the following declarations: the Property Arrangements constituted a subdivision within the meaning of s 218 of the RMA; subdivision of the land did not come within the exceptions to the prohibitions on subdivision in s 11(1)(a); and subdivision of the land was not effected by any triggers in s 11(b) to (d) of the RMA. Costs were reserved.

Decision date 7 July 2016 - Your Environment 8 July 2016.

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Persico v Upper Hutt City Council _ [2016] NZEnvC 37

Keywords: procedural; waiver; strike out; security for costs; appeal vexatious

This was the Court's decision on interlocutory applications relating to the appeal filed by P Persico ("P") against the decision by Upper Hutt City Council ("the council") approving Private Plan Change 40 to the Upper Hutt District Plan – Wallaceville ("PC40"). Wallaceville Developments Ltd ("WDL") was the applicant for PC40 and sought the rezoning of land to provide for a new suburban development combining residential and business commercial uses. The site of PC40 was previously occupied by an animal research centre. The basis for P's appeal was that the site was contaminated as the result of its previous uses and that the site was unsafe, being located near a maximum security prison and an air rifle range. The interlocutory applications were: by P, an application for waiver of late service on other parties to the appeal; and, by WDL, applications for strike out and security for costs.

The Court addressed P's application for waiver, which was opposed, noting that although P filed his notice of appeal within the statutory time limit, there was a delay of six weeks before he effected service on the other parties. After considering the provisions of s 281 of the RMA, the Court stated that failure to comply with service requirements was not just a formality but had a substantial "knock-on" effect in terms of prompt completion of the appeal process. P was not represented by legal counsel, and the Court noted that such litigants were given some latitude in order that overall justice was done. However, in the present case, the Court had previously urged P in specific terms to take appropriate legal advice and it could not be said that P was unaware of his obligations as to service. Further, as P had failed to give any explanation of his failure to serve other parties, it was not open to the Court to determine the merits of the waiver application. Accordingly, the Court declined the waiver. The Court stated that the RMA was silent as to the consequences of such a waiver application being declined. Further, nothing in the RMA or the Regulations provided that the decline of a waiver application for failure to serve other parties automatically terminated the appeal, although he Court stated it was difficult to see any other practical outcome.
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The Court then considered the strike out application by WDL, in terms of the provisions of s 279 of the RMA. WDL submitted that P had failed to comply with previous Court directions to identify the matters he wished to pursue on appeal and to the details of the expert witnesses he intended to call in support. The Court noted that P contended that the site contained life-threatening contaminants making it unsuitable for development. These issues were addressed by the council hearings committee. The Court described several site investigations undertaken by specialist consultant companies on behalf of both the council and WDL.

Based on such expert submissions, the council hearing concluded that the site was suitable for use under PC40. The Court stated it was apparent from the investigations undertaken and from the council decision that the issue of contamination was extensively considered by the council. P's opposition to PC40 was based solely on his inexpert disbelief of the comprehensive evidence provided to the council. Further it was apparent that P's statement in opposition to the strike out was based on allegations of fraud, conspiracy, lies and false evidence which the Court considered to be unfounded. P had refused further directions to identify issues he wished to pursue. The Court stated that, had the sole issue in determining the strike out application been failure to comply with directions and had there had been any indication that P was making genuine attempts to do so, the Court would have shown him some flexibility. However, the factors in the present case relating to: raising technical issues unsupported by any evidence; making baseless and intemperate attacks on the integrity of the council hearings panel; failure to serve interested parties with notice of the appeal; failure to identify issues to be pursued; and failure to identify witnesses in support in combination weighed heavily in favour to grant of strike out. The Court found it apparent that P's appeal was vexatious, having been brought maliciously. Further the Court found that the appeal disclosed no reasonable or relevant case. Accordingly, the Court found it would be an abuse of process to allow the proceeding to proceed and struck it out under s 279(4)(a), (b) and (c) of the RMA.

For the sake of completeness, the Court considered the application, under s 278(1) of the RMA, by WDL and the council for security for costs. Although the Court had no direct information of P's financial position, it noted that P had stated that he was unable to afford legal representation. The Court found there was reason to believe that P would be unable to meet the costs of the other parties if he were unsuccessful in the proceeding. The Court concluded that there was a high degree of possibility that P would be subject to a costs award should his appeal fail. Accordingly, the Court found that it would have required P to provide security for costs in the amount sought by the council and WDL.

Decision date 11 April 2016 - Your Environment 12 April 2016

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Harris v Central Otago District Council - [2016] NZEnvC 52

Keywords: resource consent; subdivision; rural residential; district plan; precedent, travellers accommodation

G Harris ("H") appealed against the decision by Central Otago District Council ("the council") to decline his application to subdivide a rural residential allotment on State Highway 6 at Lowburn into two separate titles and to create a building platform on proposed Lot 2. The land to be divided was 2.3 hectares and the proposal was to create Lot 1 of 1.3 hectares and Lot 2 of 1.0 hectares. The minimum site size in the rural residential zone in the district plan was 2 hectares, making the application a non-complying activity. The council declined consent on the grounds that the proposal was contrary to the plan and not distinguishable from the generality of other cases, and that approval would lead to adverse cumulative effects on rural amenity.

The Court was divided, with the majority allowing the appeal. The Court noted that H proposed to surrender an existing resource consent for traveller accommodation on proposed Lot 2 if the present proposal was approved, and further that the site was of poor quality and had no productive value. The Court stated that all witnesses agreed that the landscape and visual amenity effects would be no more than minor. Addressing the objectives and policies under the plan relating to rural amenity, and the provisions relating to subdivision, the Court predicted that proposal would result in minimal reduction in open space, since the proposed building on Lot 2 was to replace the consented travellers' accommodation buildings. The Court concluded that to grant consent in the present case would not contravene the precedent in *Dye v Auckland Regional Council* [2002] 1 NZLR 337 and that there were no relevant cumulative adverse effects which the Court should take into account under s 104(1)(a) of the RMA. Further, the Court concluded that it was not appropriate to invoke the concept of breaching the integrity of
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the plan in the present case. The majority therefore concluded that the objectives and policies of the plan would be better achieved by granting consent than by refusing it. In particular, the Court considered that any effects of the proposal on the landscape qualities and visual amenity, when conditions relating to landscaping and planting were taken into account, were likely to be positive rather than negative. The Court stated that there was ample room for the council to determine future applications regarding similar sites on their individual merits.

Dissenting, Commissioner Mills differed from the majority regarding other matters under s 104(1)(c), relating to precedent and plan integrity. The minority did not find the application was distinguishable from the generality of other cases which might be the subject of future applications, in Lowburn and in many other areas of the district. While accepting that each such future application was to be assessed on its own merits, the minority stated that subdivision was the facilitator of new development, as recognised by the plan provisions as to site size in the rural residential zone. The minority agreed, under s 290A of the RMA, with the council as to the importance of holding the line on subdivision with its potential to encourage intensification of associated development and adverse cumulative effects on landscape and amenity. The minority considered that the way to approach subdivision was by means of a change in the district plan and that it was inappropriate to pre-empt that process and set a precedent with the potential to undermine plan integrity. By majority decision, the appeal was allowed. Costs were reserved.

Decision date 14 April 2016 - Your Environment 15 April 2016

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Auckland Council v Andrews Housemovers Ltd - [2016] NZDC 780

Keywords: prosecution; tree protection

Andrews Housemovers Ltd ("the company") pleaded guilty to a charge brought by Auckland Council ("the council") of contravention of a tree protection rule in the operative district plan ("the rule"). The company permitted an employee, T, to remove three pohutukawa trees from a road at Ropata Ave, Point England ("the site"), without resource consent, in breach of the rule. The company was in the business of removing and relocating houses and it was in process of the placing a removal house on the site that the trees were removed.

The Court stated that the parties had agreed that restorative justice would be appropriate and the Court agreed to the outcomes of a restorative justice conference which had taken place. These outcomes were that: the company agreed to replace the trees in accordance with a scope of works agreed between arborists of the council and the defendant, which was estimated to cost $27,393; the company agreed to pay costs of $3,000 to the council; and the company agreed to pay a $3,000 donation to Project Crimson, an organisation involved with planting Pohutukawa trees. In the event that all these outcomes took place, the council agreed that a conviction and discharge under s 108 of the Sentencing Act 2002 would be appropriate.

The Court said that its main concern was to ensure that whatever damage was done was fixed and considered that the remediation agreed to in the present case was appropriate. Accordingly, the company was convicted and discharged.

Decision date 2 March 2016 - Your Environment 3 March 2016.

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This month's cases were selected by Roger Low, rlow@lowcom.co.nz, and Hazim Ali, hazim.ali@aucklandcouncil.govt.nz.

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Other News Items for August 2016

Environment Court declines application to demolish historic mansion. *The Press* reports that the owners of McLean's Mansion in Christchurch have been refused permission by the Environment Court to knock down the building, even though Canterbury Earthquake Recovery Authority issued a demolition order. The Court found that the building had a very high historical and cultural heritage values which justified its protection. Read the full story here.

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No error found by High Court in Wellington airport runway decision. *The New Zealand Herald* reports that the High Court has declined an application by the New Zealand Airline Pilots for judicial review of the decision by Civil Aviation to propose a 90-metre safety area for the extended runway. The project has been publicly notified by the Greater Wellington Regional Council and Wellington City Council and public submissions close on August 12. Read the full story here.

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Cornwall Park leasehold dispute set to go to Supreme Court. *Radio New Zealand* reports that Yong Xin Chen has been granted leave to appeal to the Supreme Court over a long-running leasehold dispute with the Cornwall Park Trust Board. Read the full story here.

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4,000 new state houses. *The New Zealand Herald* reports that Housing New Zealand will spend $2 billion to construct and purchase 4,000 new state houses, of which over 3,000 will be in Auckland. Read the full story here.

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Land in lieu of reserves payment. The *Otago Daily Times* reports that Queenstown Lakes District Council will be paid by Northlake Investments Ltd in vested land in its Wanaka subdivision rather than in money. Read the full story here.

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LINZ survey confirms appetite for Open Data. Land Information New Zealand (LINZ) is improving access to property information following a survey ranking it among the most in-demand types of government data, says Land Information Minister Louise Upston.

The findings were included in the results of a LINZ survey which asked New Zealanders about the top 10 datasets they would most like to be able to access.

LINZ makes data it holds available through the LINZ Data Service. This includes property boundaries and title information.

Please click the link for the full statement. Media Release

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Real estate fined over failure to disclose building plans. *The New Zealand Herald* reports that a real estate agent has been fined for selling her parents' house without revealing a sea view was about to be partially blocked. Read the full story here.

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Government may legislate to free residential land if Auckland Unitary Plan fails to deliver

Radio New Zealand reports that Auckland Council, whose Unitary Plan is near completion, has been put on notice as to the need to provide for greater housing intensity and to increase residential land availability. Bill English has said that the Government may be forced to legislate to free up more housing land in Auckland if the council fails to do so. Read the full story here.

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Charity takes covenant case to High Court. *Stuff* reports that a children's charity has asked the High Court to rule a proposed health camp would not amount to commercial or industrial use, so it will not be blocked by a legal covenant on the property. Read the full story here.

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Samoa: Complaints over non-legally trained lands court judges.

Radio New Zealand reports that the Samoa Law Society says the lack of legal experience of judges sitting on the Lands and Titles Court has caused problems. Read the full story here.

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Australia: New Sydney plan for high-rise CBD. *The Sydney Morning Herald* reports that, under the recently released planning review of the city's CBD, the Central Sydney Planning strategy, the maximum height of buildings will rise to 310 metres and the central city will be opened up to billions of dollars of commercial development. Read the full story here.

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Tougher planning rules for shipping containers and tiny homes in Christchurch.

The Press reports that Christchurch City Council has amended its planning rules to make enforcement easier regarding people living in structures such as boats, large house buses and shipping containers. Complaints from residents about some structures on neighbouring properties have been on the rise since the earthquakes. Read the full story here.

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Porter Group's new multi-million dollar headquarters in Hamilton. *Stuff* reports that Porter Group, New Zealand's largest construction equipment supplier, has begun construction of its new global headquarters in Hamilton. The new 8000-square-metre building will house more than $40 million of parts for distribution in New Zealand as well as Australia, Papua New Guinea, and Southern California. Read the full story here.

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Wine company settles with Heritage NZ after scrub clearing near historic pa site.

The *Marlborough Express* reports that Rangitane o Wairau iwi members, and owners of a wine company owner have agreed to pay $15,000 to Heritage New Zealand, in an out-of-court settlement following charges for clearing scrub and building a fence near a historic pa site. Read the full story here.

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Challenge in Environment Court to sale of Queen Elizabeth Square.

The New Zealand Herald reports that Auckland Council's proposal to sell Queen Elizabeth Square in the CBD to Precinct Properties is being challenged by the Auckland Architectural Association. The planned sale of 2,000 m^2 of public open space for $27 million is part of a project for construction of a $681m, 39-level waterfront Commercial Bay building complex. The challenge to the sale is supported by Urban Auckland, Civic Trust Auckland, Auckland CBD Residents' Advisory Group and Walk Auckland. Read the full story here.

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Government may legislate to free residential land if Auckland Unitary Plan fails to deliver. *Radio New Zealand* reports that Auckland Council, whose Unitary Plan is near completion, has been put on notice as to the need to provide for greater housing intensity and to increase residential land availability. Bill English has said that the Government may be forced to legislate to free up more housing land in Auckland if the council fails to do so. Read the full story here.

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Government research priorities established for conservation and the environment.

Radio New Zealand reports that the Ministry for the Environment and the Department of Conservation have released a joint joint discussion document setting scientific research priorities in climate change, freshwater and urban ecosystems. Read the full story here.

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