Newslink Case-notes for June 2017 prepared 20 May 2017.

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Legislation Case-notes – June 2017

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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".

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Summaries of cases from Thomson Reuter's "Your Environment".

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

- A decision on an appeal against grant of a consent for the Whirinaki pulp and paper mill to discharge effluent from its manufacturing processes via a marine pipeline into Hawkes Bay. The appellant Trust considered that its kaitiakitanga over the marine area extended to a right of veto over the proposal;
- Two further decisions of High Court and Court of Appeal in relation to rural land at Waiheke Island. The appeal to the Court of Appeal related to the "outstanding natural landscapes" provisions in the Regional Policy Statement and the appeal to the High Court about provisions in the Auckland Unitary Plan for management of the property;
- A decision on an appeal by a residents group to the Environment Court against a notice of requirement by Auckland Council's company Watercare Ltd to construct two large water reservoirs on a hill near Pukekohe to boost water supply for the increasing population in the area;
- An application by a community group for a declaration about two processes of plan change and review by Kapiti Coast District Council which sought to withdraw the coastal hazard provisions from the plan;
- The conviction of an owner of a residential property at Mt Roskill for illegally converting it into multiple household units;
- The final decision of the Environment Court on a plan change that would allow further housing development at the site of a former quarry at Three Kings, Auckland.

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Maungaharuru-Tangitu Trust v Hawke's Bay Regional Council - [2016] NZEnvC 232

Keywords: resource consent; conditions; discharge to water; colour; contaminant; effect; coastal marine area

Maungaharuru-Tangitu Trust ("the Trust") appealed against the decision by Hawke's Bay Regional Council ("the council") to grant resource consents to Pan Pac Forest Products Ltd ("PPFP") relating to the discharge to the sea of effluent from its pulp and paper mill at Whirinaki ("the mill"). The discharge was by way of a marine pipeline into an area of Hawke's Bay ("Tangitu"), recognised as having high cultural and historical significance to Tangata Whenua. An upgrade of the mill in 2012 was a significant change in the colour of the effluent, from grey to a dark reddish-brown. This was contrary to a condition of the consents which specified that the discharge should not cause any conspicuous change in colour or clarity of the receiving waters beyond a specified point. PPFP then applied for new resource consents to enable an increased dilution in the effluent wastewater and a new discharge location from an extended discharge outfall pipe. It was against these consents, with conditions, which were granted by the council on 16 September 2015 that the Trust now appealed. The activity had discretionary status under the relevant planning provisions.

The Court considered the terms of the consents, the extent of PPFP's operations, and the details of the existing discharge and concluded that the existing environment was not a pristine one. Further, having considered the expert evidence relating to the marine environment and water quality, the Court was satisfied that the bio-physical effects of the existing discharge on the environment were no more than minor inside or outside the mixing zone, excepting the issue of discolouration, which the Court considered to be an amenity effect. The Court considered the provisions of s 107(1)(d) of the RMA and noted that the word "conspicuous" was not defined in the Act. However, it was clear from dictionary definitions that the word did not simply mean visible but rather implied a higher degree of visibility: it must "catch the eye". It was common ground that the present discharge was conspicuous. Section 107(1)(d) of the RMA imposed a prohibition if the discharge was likely to give rise to a change in colour "after reasonable mixing"; the Court concluded that that provision allowed for identification of a reasonable mixing zone within which the discharge might be conspicuous. In the present case the new consent sought a mixing zone of 150 metres from any point of the increased diffuser. To determine whether the present proposal, with an increased dilution of effluent, satisfied the test in s 107(1)(d) of the RMA, the Court adopted the MFE Guidelines as setting out an appropriate methodology. Taking into account expert evidence, the Court was satisfied that it was not likely that the effluent discharge would be conspicuous from the Whirinaki township or other locations along the coast of the Hawke's Bay and accordingly s 107(1)(d) of the Act did not prohibit the grant of consent to the present applications. In addition, the scientific evidence was not challenged that the bio-physical effects of the proposed relocated discharge and extended pipeline would be minor, less than minor, or negligible inside or outside the mixing zone. Further, scientific evidence did not support the Trust's view that the existing discharge contributed to an acknowledged deterioration in the quality of Tangitu as a fishery.

The Court stated that while the nature of the Trust's relationship with the land and waters of Tangitu was a "given", what was in dispute was the effect which the proposal might have on that relationship. Furthermore, the Court was satisfied that PPFP consulted extensively with the community about the discoloration issue, but the Trust had declined to participate in such consultative process. The Court noted that representatives of the Trust in the hearing maintained an obdurate position that the Trust should have an effective right of veto to the present, or any other, proposal; however, this was contrary to the long-recognised position that there was no right of veto. The Court confirmed that considerations in s 6(e) of the Act did not trump all other matters. While accepting that the view expressed by some of the Trust's witnesses were genuinely held, the Court was not convinced that there would be adverse effects on the mauri of Tangitu or on the relationship of tangata whenua with their ancestral waters. This was because: the discharge formed part of the existing environment; the proposal extended neither the volume nor duration of the existing discharge; the adverse bio-physical effects of the existing discharge were minor at worst; the effluent from the mill had no detectable impact on Tangitu as a fishery; and the new consents created no adverse effects that were greater than the existing discharge. Other grounds of the appeal, including that there had been inadequate consideration of alternatives, and that the proposal should have been publicly notified, were also rejected by the Court.

After considering the application against pt 2 of the RMA, the Court concluded that while it agreed that the Trust and its constituent hapu exercised kaitiakitanga over the waters of Tangitu, it disagreed that the exercise of such kaitiakitanga extended to a right of veto over the proposal. Improvement of an existing process to enable the continuation of a substantial industry with many social and economic benefits was an efficient use of natural and physical resources. The Court was satisfied that the amenity values and quality of the environment would be at least maintained by the further dilution of the effluent. The consents were granted subject to final resolution of conditions, regarding which directions were given. Costs were reserved.

Decision date 16 January 2017 - Your Environment 17 January 2017

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Man O'War Station Ltd v Auckland Council -_ [2017] NZCA 24

Keywords: Court of Appeal; regional policy statement; landscape protection; objectives and policies; farming
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The Court of Appeal considered the appeal by Man O'War Station Ltd ("MOWS") against provisions in proposed change 8 ("PC8") to the Auckland Regional Policy Statement ("ARPS") relating to outstanding natural landscapes ("ONLs"). MOWS owned 2,364 ha of land on Waiheke and Ponui Islands in the Hauraki Gulf and operated a substantial part of this as a farm. MOWS raised concerns that certain of the proposed ONLs in PC8 would inhibit the ongoing use and development of its land for pastoral farming. Following its unsuccessful appeals on the matter to the Environment Court ("the EC") and High Court ("the HC"), MOWS now appealed on five questions of law: whether the identification (including mapping) of an ONL in a planning instrument, prepared for the purpose of s 6(b) of the RMA, was informed by the protection afforded to that landscape under the Act or/and the planning instrument; whether the test for deciding if a landscape was outstanding under s 6(b) of the RMA had changed by reason of the Supreme Court's decision in *King Salmon;* whether, where a landscape identified as an ONL was not now correct in law by reason of *King Salmon*, such a landscape should be re-assessed; whether it was relevant to the identification of an ONL (particularly in the coastal environment) that was a working farm, that the policy framework would severely constrain its future use for farming; and whether the HC was correct to find that in assessing whether a landscape is an ONL, there was no need to incorporate a comparator nationally or in the relevant region or district.

After considering the judgments of the lower courts, the Court of Appeal stated that the main issue was the proper interpretation and application of the word "outstanding" in s 6(b) of the Act, policies 13 and 15 of the New Zealand Coastal Policy Statement ("NZCPS") and the relevant provisions in the ARPS. MOWS's principal argument was that PC8 was prepared prior to the *King Salmon* decision, and reflected the law at that time, in particular the understanding that the protection given to an ONL was only one factor in the overall judgment called for by s 5 of the Act. MOWS argued that the *King Salmon* decision meant that the approach to the protection of ONLs in the coastal environment had changed so that, under policy 15 of the NZCPS, all adverse effects within them now had to be avoided.

After setting out its understanding of the majority decision in *King Salmon,* the Court addressed the questions under appeal in the present case. Regarding the first question, the Court agreed with MOWS that it was clear that, at the time it developed the policies and maps in PC8, the council contemplated ongoing use of MOWS's land and a degree of development for ongoing rural production purposes, and would not have contemplated that the land in the ONLs would be subject to the more restrictive regime flowing from the Supreme Court decision. However, the Court did not accept that whether or not land qualified as an ONL must be influenced by the consequences of according it that status in terms of what might take place on that land. The question of what restrictions applied to land identified as an ONL, and the criteria which might be applied when assessing issues of consent to activities on that land, arose only after the ONL had been identified. Such questions did not relate to the qualities of the landscape at the time the ONL assessment was made, but related to subsequent actions which might or might not be appropriate within the identified ONLs. The Court found it would be illogical and contrary to the intent of s 6(a) and (b) of the RMA to conclude that an outstanding area should only be so classified if it were not suitable for a range of other activities. The answer to the first question was no.

Turning to the second question, the Court said it did not consider that *King Salmon* was a judgment about the threshold to be applied in deciding whether a landscape was outstanding for the purposes of s 6(b) of the RMA. The question in that case was whether a spot zoning should be allowed and a resource consent granted in an ONL area. The Supreme Court did not hear any argument that the area was not outstanding. There was nothing in *King Salmon* to suggest that the Court was trying to raise the test or threshold for deciding whether a landscape was outstanding. The second question was answered no.

Regarding the third question, the Court stated that again the question attempted to link policies in the ARPS, which applied to ONL's identified, with the process of identification of such ONLs. These were conceptually separate ideas. The Court saw nothing in *King Salmon* which affected the identification of ONLs, even if a policy framework might need adjusting as a result of the Supreme Court decision. The third question was answered no.

The Court considered that the fourth question in the appeal was also predicated on a link between identification of an ONL and the activities contemplated by the relevant planning

instrument within that ONL. The Court was not of the opinion that there was such a link. Nor was it persuaded that the ongoing use of MOWS's land in the ONL's for the purposes of farming as at present would constitute relevant adverse effects on the specified ONLs, having regard to the basis on which such ONLs were identified as outstanding in the ARPS.

The final question challenged the HC's finding that there was no need to incorporate a comparator, or a basis of a comparison, with other landscapes, nationally or regionally, when assessing whether a landscape was an ONL. The Court of Appeal now rejected MOWS's argument. Supported by the provisions of ss 61(1)(b) and 67(3) of the RMA and the reasoning in *King Salmon*, the Court concluded that the task of the regional council in formulating its regional policy statement was to assess the environment on a regional basis. The ONLs should be those that are outstanding in terms of the region's natural environment. The appeal was dismissed. Costs were awarded against MOWS on a band A basis.

Decision date 17 March 2017 - Your Environment 20 March 2017

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Man O'War Farm Ltd v Auckland Council - [2017] NZHC 202

Keywords: High Court; jurisdiction; consent order; district plan proposed; coastal; landscape protection; national policy statement; objectives and policies; fencing; rules

This decision of the High Court concerned an appeal by Man O'War Farm Ltd ("MOWS") against Auckland Council's ("the council") decision on the proposed Auckland Unitary Plan ("the PAUP") relating to vegetation management and biodiversity. The appeal was opposed by the council and others under s 301 of the RMA. All parties had agreed to a settlement of the appeal, which they now requested the Court to approve.

The Court noted that that, although the parties agreed on the terms of the settlement, they did not all agree that the council had erred in law in its decision. Rather, they sought clarification of the proposed plan provisions and submitted that the Court had jurisdiction to approve the suggested amendments under r 20.19 of the High Court Rules 2016. The Court stated that the proposed settlement sought an amendment to chapter E15, to insert the specified additional text which related to fencing requirements. The Court stated that an appeal was a resort to a higher court to redress an error made by a lower court, and was a statutory creation. In the present case MOWS brought the appeal under s 158 of the Local Government (Auckland Transitional Provisions) Act 2010 ("the LGATPA"), which conferred a right of appeal, only on a question of law, to persons who made submissions on the PAUP. Section 158 of the LGATPA provided that s 299(2) and ss 300-307 of the RMA applied to such appeals. The Court stated that there was nothing in such RMA provisions which was inconsistent with the Court's powers under r 20.19 of the High Court Rules 2016, which also applied to appeals under s 158 of the LGATPA.

After referring to relevant case authority, the Court concluded that the powers contained in r 20.19 of the High Court Rules 2016 could come into play only where the Court was first satisfied that the decision challenged on appeal was made pursuant to an error of law. The Court had no jurisdiction to insert provisions to the proposed plan which the parties belatedly thought were preferable to those decided by the council. To suggest otherwise was inconsistent with the public and participatory approach to the promulgation of regional and district plans. The Court could not be satisfied that there was an error of law in the present case there had been no evidence or hearing to determine the issue. The proposed settlement was declined.

Decision date 21 March 2017 - Your Environment 22 March 2017

(For the previous case summaries involving MOW Station, see Newslink in February and December 2014, and June and August 2015. - RHL)

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Pukekohe East Community Society Inc v Auckland Council – [2017] NZEnvC 27

Keywords: water supply; requirement; resource consent; conditions; amenity values; effect adverse

This appeal concerned the proposal by Watercare Services Ltd ("Watercare") to build two large reservoirs on a site in Runciman Rd, Pukekohe ("the site"). Watercare, by notice of requirement

("NOR"), proposed a designation for the site to be used for water supply and storage purposes. Pukekohe East Community Soc Inc ("the Society") appealed against decisions by Auckland Council ("the council") to: recommend that the requirement be confirmed, subject to conditions; and grant the resource consents, also subject to conditions.

The Court stated that the dispute between the parties concerned on the one hand the benefits offered by the reservoirs for the strategic improvement of Auckland's water supply and on the other hand the Society's concerns about the adverse effects of the proposal on the surrounding area's amenities. The Court noted that the case exemplified the tension between a strategic approach to large-scale infrastructure and the interests of the local community, which would bear most of the adverse effects of the construction and presence of such infrastructure. The issues to be resolved by the Court related to: the adverse effects of the reservoirs; whether Watercare adequately considered alternatives for the design, in particular the height, of the reservoirs; whether the proposal should be modified; and whether the proposed conditions adequately addressed the effects of the proposal. In its assessment of the NOR, the Court considered the provisions of and case authority relevant to ss 174(4) and 171(1) of the RMA and addressed the resource consents under ss 104 and 104B.

The Court noted that the site, owned by Watercare, was zoned Mixed Rural under the Auckland Unitary Plan ("AUP") and was in a rural-residential area with a well-established community. Given that there was a likelihood of significant adverse effects, in the form of the size and height of the reservoirs, effects on landscape and amenity effects, the Court was satisfied that it was necessary to address the adequacy of consideration given to alternatives under s 171(1)(b) of the Act. Against the provisions of s 171(1)(c) of the RMA, the Court stated that the main issue was whether placing the reservoirs entirely above ground level was reasonably necessary, as opposed to the submission by the Society that the reservoirs should be at least partially buried below ground. After considering the expert evidence, the Court found that the above-ground proposal of Watercare would increase resilience, storage and security of water supply and minimise construction and whole of life costs, whereas the Society's alternative would not provide an enhanced gravity supply of water between the site and the reservoirs at Redoubt Rd and would not provide the necessary resilience of supply in the event of power outages. Further, the Society's underground proposal could add additional costs in the order of $5 -10 million. The Court concluded that the alternative proposed by the society would not achieve the objectives for the work as efficiently as Watercare's proposal.

The Court then considered the adequacy of the proposed conditions relating to landscape and visual effects, heritage and character effects, safety concerns, construction effects including noise and vibration, and concluded that, with changes specified and approved by the Court during the present decision, the resource consent conditions appeared appropriate and robust.

The Court concluded, on an interim basis, that the requirement should be confirmed, and the resource consents granted. However, the Court stated that it considered it essential that the conditions attached to both the designation and the consents should be clarified and strengthened and that the council and the Society should have the opportunity to review the revised conditions submitted by Watercare and that all parties should have the opportunity to comment. The parties were accordingly directed to review the conditions attached to the present decision and respond with submissions. Costs were reserved but not encouraged.

Decision date 30 March 2017 - Your Environment 31 March 2017

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Coastal Ratepayers United Inc v Kapiti Coast District Council - [2017] NZEnvC 31

Keywords: declaration; procedural; district plan proposed; district plan review; coastal

Coastal Ratepayers United Inc ("Ratepayers") applied for declarations regarding two processes undertaken by Kapiti Coast District Council ("the council"): a review of the operative district plan ("ODP"), under s 79 of the RMA; and the notification and processing of a proposed district plan ("PDP") under sch 1 of the RMA. The Ratepayers sought declarations that: the council, having notified a full review of the district plan, could not change the ambit of such review under s 79 of the RMA without first notifying the provisions which were no longer subject to the review, and/or notifying the existing provisions which it intended to remain operative after the proposed plan
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was completed; and that in withdrawing the coastal hazard and other provisions under cl 8D, sch 1 of the RMA, the council changed the meaning of the remainder of the PDP.

The Ratepayers' concerns related to the withdrawal of provisions in the PDP about coastal hazard lines, coastal hazard areas and the rules relevant to the coastal hazard provisions. Ratepayers argued that the council's intention that coastal hazard provisions in the ODP should continue to remain in force pending formulation of suitable replacement provisions in the PDP could be effected only by undertaking a review of the ODP under s 79 of the RMA, and that the notification and processing of the PDP replacing the ODP under sch 1 of the RMA. Further, the Ratepayers argued that the withdrawal of coastal hazard provisions altered the meaning of the PDP to such an extent that a variation of the PDP was required to be undertaken.

The Court considered the terms of the declarations sought and the council's submissions. The Court stated that it was considered appropriate to be assisted by amicus in the present case. This was because of concerns as to the number of people potentially affected by any ruling the Court might make (over half of the 777 submissions on the PDP had related to coastal hazard provisions) and that having heard only the two parties in the declaration proceedings might result in a somewhat narrow focus.

The Court then addressed the questions raised by the first declaration. The Court considered that the Ratepayers had conflated two separate processes: first, the review of district plans under s 79 of the Act; and second, changes to district plans under the First Schedule. The Court said that the fact of the matter was that the council had undertaken a full review of the ODP and determined that its provisions required alteration. It had not made a decision that the coastal hazards provisions of the ODP did not require alteration, as suggested by the Ratepayers. The Court said that the position was that: there was presently a district plan, namely the ODP; the council had reviewed the ODP and considered it required alteration; the alterations were contained in the PDP presently going through the plan change process in sch 1 of the RMA; when the changes were completed and made operative they would replace the provisions they had changed; due to the withdrawal of the coastal hazard provisions from the PDP, such provisions would require undertaking a further plan change to make the alterations which the council required; until such time as they were changed, the existing coastal hazard provisions were part of the ODP and remained in force. The Court noted that the Ratepayers complained as to the time (estimated at four years) likely to elapse before the council effected the changes to the existing coastal hazard provisions and said such a delay might be regarded as pushing the extreme boundaries of promptness. However, integral to determining the appropriate coastal hazard provisions was the council's required consideration of climate change, under pt 2 of the RMA. Given that the final provisions would likely have far-reaching impact on property owners, the Court stated that it was more important the council got it right than got it quick.

Turning to consider the second declaration sought, the Court considered the High Court decision in *West Coast Regional Council v Royal Forest and Bird Protection Soc of New Zealand* (2006) 12 ELRNZ 269 and concluded that the test identified in that case was not whether the effect of the alteration on the remaining parts of the PDP was "minor" or "major" but rather whether the alteration brought new provisions into a proposed plan which might affect the rights of some members of the public. In the present case, the Court concluded that the provisions identified involved a reversion to the status quo ante and accordingly did not constitute a variation. The Court raised the possibility that sch 1, cl 16(2) of the RMA might be used in the present case as an appropriate means of resolution of the issues, and requested the parties to consider the matter further. The decision was issued on an interim basis to enable the parties to respond.

Decision date 30 March 2017 - Your Environment 3 April 2017

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Auckland Council v Zhang - [2017] NZDC 4596

Keywords: prosecution; district plan; rule; dwelling; abatement notice

J Zhang ("Z") and W Jia ("J") were charged with offences under s 9(3) of the RMA relating to the use of a building at 355 Richardson Rd, Mt Roskill ("the property") as multiple residence units, in contravention of rules in the then operative Auckland District Plan ("the plan"). In addition, Z was charged with breach of an abatement notice issued by Auckland Council ("the council").
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The defendants represented themselves at the trial, assisted by an interpreter. Z was the registered proprietor of the property, which had an area of 905 square metres, on which was a two-storey house. Z lived at the property with J, who was Z's husband. The property was zoned Residential 6a in the plan, which limited the number of residential units to one per 375 square metres and provided that all units should have an outdoor living area as specified. The council submitted that the upper floor of the building was a separate residential unit and the lower floor comprised an acupuncture clinic plus several other residential units.

The Court considered the relevant provisions of ss 9, 10, 10A and 341 of the RMA and stated that the central question was the number of residential units on the lower floor. With regard to the definition of "residential unit", the Court adopted High Court and Court of Appeal case authority to the effect that this involved an objective assessment and a consideration of the ease with which units might be made exclusive, or were designed to be used exclusively. The Court noted that the defendants had unsuccessfully challenged evidence obtained by the council under a search warrant and that the High Court had concluded that such evidence obtained as to the use of the property might be included. Consequently, the Court now considered such evidence, comprising various photographs, documents and tenancy agreements. From these, the Court was satisfied beyond reasonable doubt that the property was being used by the defendants as multiple residential units, being a total of four such units, in a manner which contravened rules in the plan as to density and private open space without the authority of a resource consent or of being an existing use under s 10 of the RMA. Further, the Court was satisfied beyond reasonable doubt that Z had breached the abatement notice. Accordingly, Z and J were convicted as charged.

Decision date 12 April 2017 - Your Environment 13 April 2017

(See the previous case summary reported in Newslink in February 2017 – RHL)

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South Epsom Planning Group Inc v Auckland Council - [2017] NZEnvC 32

Keywords: district plan change

This was the decision of the Court regarding appeals relating to Plan Change 372 ("PC372") and the proposal by Fletcher Residential Ltd for a housing development at Three Kings Quarry in Auckland. Following its decision of 29 July 2016 ("the previous decision") the Court stated that it now had enough information to finalise its decision without a further hearing.

The Court reviewed the progress made in the proceedings subsequent to the previous decision. In particular, the Court noted that the High Court had issued its decision in respect of certain scope and jurisdictional matters relating to the Auckland Unitary Plan. The Court now addressed the issues still at large relating to PC372, including provisions relating to integration and connectivity issues, building form and height, flooding risk issues, the lava lake and stairway, recognition and protection of volcanic features, sight lines and access roads, and made specific decisions and amendments. The Court concluded that with the various amendments it approved to the plans and wording, PC372 could be finalised. The Court set a timetable for Auckland Council to prepare and circulate the provisions, with amendments to attachments A and B made as the result of the present decision.

Decision date 30 March 2017 Your Environment 3 April 2017

(See the previous case summary reported in Newslink in October 2016 – RHL)

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The above brief summaries are extracted from "Alert 24 - Your Environment" published by Thomson Reuters and are reprinted with permission. They are intended to draw attention to decisions that may be of interest to members. Please consult the complete decisions for a full understanding of the subject matter. Should you wish to obtain a copy of the decision please phone Thomson Reuters Customer Care on 0800 10 60 60 or by email to judgments@thomsonreuters.co.nz.

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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 June 2017

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Unit Titles Amendment Regulations 2017 (LI 2017/97). These regulations, which are made under the *Unit Titles Act 2010* (the Act) and amend the *Unit Titles Regulations 2011* (the principal regulations), come into force on 30/05/2017.

These regulations—

- amend the principal regulations to set out the requirements for calling and holding extraordinary general meetings that are required by section 89A of the Act (as inserted by the *Regulatory Systems (Building and Housing) Amendment Act 2017*). Section 89A requires that an extraordinary general meeting be held if the chairperson receives a notice, signed by the unit owners of not less than 25% of the principal units, asking for an extraordinary general meeting to consider and decide motions proposed in the notice:
- make changes to the forms set out in Schedule 2 of the principal regulations that are technical or consequential on changes made to the Act by the *Regulatory Systems (Building and Housing) Amendment Act 2017* and (to a lesser degree) by the *Unit Titles Amendment Act 2013*:
- insert a new form into Schedule 2 of the principal regulations for the new certificate required by section 189(3)(c) of the Act (as inserted by the *Regulatory Systems (Building and Housing) Amendment Act 2017*).

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New houses to be built in Auckland. *The New Zealand Herald* reports that the Government will build hundreds of new houses in the Auckland suburbs of Mt Roskill, Papakura, New Lynn and Glen Innes by 2020 and non-resident buyers will unable to purchase properties in affordably-priced developments. Read the full story here.

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Southland mayor's apology for $1m legal fees in Cycle Trail case. *Radio New Zealand* reports that Southland District Council has dropped its appeal in the High Court concerning the Around The Mountains Cycle Trail. Fish and Game's appeal against aspects of the proposed trail was successful in the Environment Court, and the council has incurred costs of over a million dollars on the case, and spent almost ten million dollars on the trail. Read the full story here.

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Geothermal find on West Coast. The *Otago Daily Times* reports that University of Otago researchers have discovered water hot enough to boil at 630m deep at Whataroa, north of Franz Josef Glacier. It has opened up the possibility there is a significant and sustainable geothermal energy source for the West Coast's economy. Read the full story here.

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Government offers to double spending on Otago lake weed. *Radio New Zealand* reports that the Government has offered to double the money it puts into stopping an invasive weed in Central Otago's Lake Dunstan if Otago Regional Council matches it. The oxygen weed lagarosiphon has spread from Lake Wanaka to Lake Dunstan and is now threatening Lake Wakatipu. Read the full story here.

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Ngati Whatua wants to buy the Ports of Auckland land. *The New Zealand Herald* reports that Ngati Whatua Orakei Trust spokesman Ngarimu Blair has released a statement saying Ngati Whatua would like to buy the Ports of Auckland land and would form a consortium for that
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purpose. However, mayor Phil Goff said the land is not for sale and if ever freed up (with the relocation of the port) would be used for a public space with Ngati Whatua being consulted on potential developments. Read the full story here.

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British Land cuts amount of speculative building. (Reuters) - Property company British Land said it had reduced the amount of space it was developing before securing tenants to below 4 percent, adding that its London office customers were taking longer to make decisions on moves.

Britain's second-largest listed developer, which owns Sheffield's Meadowhall shopping centre and office developments at Paddington Central in London, said it expected uncertainty in the property market to persist for "some considerable" time as Britain negotiates its exit from the European Union.

Financial firms, large occupiers of London offices, need a regulated EU subsidiary to offer their products across the bloc, which could lead some to move work out of Britain if it loses access to the single market.

Against this backdrop, a Deloitte survey published on Wednesday (May 17 2017) showed that 3.9 million square feet of space was completed over the six months to March 31, marking the highest amount delivered in central London since 2004.

The survey, which showed that a further 28 new construction projects were started in the period, also said that the amount of empty office space in London has jumped over the past 15 months and was likely to rise further this year.

British Land said on Wednesday the amount of space it was building without secured tenants was cut to reduce its exposure to such higher risk projects in what it termed as "uncertain markets". The figure had been five percent six months ago.

"London occupiers, particularly financial institutions, are making contingency plans but there is a wide range of possible outcomes here," it said.

The company's underlying profit jumped 7.4 percent to 390 million pounds in the year ended March 31, but its EPRA net asset value - a key industry metric that reflects the value of a firm's buildings - slipped 0.4 percent to 915 pence per share.

British Land sold off property worth 1.5 billion pounds during the period, including the disposal of its 50 percent stake in London's famed Leadenhall Building, known more popularly as the Cheesegrater because of its distinctive shape.

The deal, struck earlier this year and that fetched the company and Oxford Properties 1.15 billion pounds collectively, is expected to close this month.

The company also announced a final quarterly dividend of 7.3 pence, up 3 percent, and proposed a first-quarter dividend of 7.52 pence. Its shares dipped 1 percent in early trade.

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Unit Titles Amendment Regulations 2017 (LI 2017/97). These regulations, which are made under the *Unit Titles Act 2010* (the Act) and amend the *Unit Titles Regulations 2011* (the principal regulations), come into force on 30/05/2017. These regulations—

amend the principal regulations to set out the requirements for calling and holding extraordinary general meetings that are required by section 89A of the Act (as inserted by the *Regulatory Systems (Building and Housing) Amendment Act 2017*). Section 89A requires that an extraordinary general meeting be held if the chairperson receives a notice, signed by the unit owners of not less than 25% of the principal units, asking for an extraordinary general meeting to consider and decide motions proposed in the notice:

- make changes to the forms set out in Schedule 2 of the principal regulations that are technical or consequential on changes made to the Act by the *Regulatory Systems (Building and Housing) Amendment Act 2017* and (to a lesser degree) by the *Unit Titles Amendment Act 2013*:

- insert a new form into Schedule 2 of the principal regulations for the new certificate required by section 189(3)(c) of the Act (as inserted by the *Regulatory Systems (Building and Housing) Amendment Act 2017*).

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Liquidator sells failed subdivision at Rolleston. *Stuff* reports that the liquidator Waterstone has sold a failed residential subdivision at Rolleston for $14.5 million. It had been developed by Sean Rota and FCL Holdings. The potential 900 section block has been purchased by Long Vision Property Development which is owned by a Hong Kong company. The deposits of home buyers are held in a lawyer's trust account. Read the full story here.

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Yellow-eyed penguins might be extinct by 2060. The *Otago Daily Times* reports that a study of the population levels of yellow-eyed penguins on an Otago Peninsula has led the author Thomas Mattern to believe the species, which had been shown on the five-dollar note, may be wiped out by rising sea temperatures within 50 years. Read the full story here.

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West Coast water export by Okuru Enterprises approved. *Radio New Zealand* reports that West Coast Regional Council has granted consents for the building of a pipeline and water tank farm at Jackson Bay on the West Coast, despite protests about the export of up to 800 litres of alpine lake water per second. Read the full story here.

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Wellington runway appeal to go before Supreme Court. *Radio New Zealand* reports that the Supreme Court will hear the appeal by Wellington Airport relating to the length of safety areas necessary for the proposed runway extension. Read the full story here.

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Top placed on Wellington's new airport control tower building. *The Dominion Post* reports that the new $18 million control tower for Wellington Airport, constructed with an intentional lean towards the prevailing northerly wind, has had the top put in place. Construction has been ongoing since January 2016. Read the full story here.

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Dairy NZ admits that farmers have a long way to go to meet water targets. *Radio New Zealand* reports that a reports by Dairy NZ of the the industry's Water Accord, says that work done by farmers should be acknowledged. For instance, 97 percent of dairy cattle are now fenced off from waterways, although riparian management is still problem on some farms. Read the full story here.

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Plans to build 26 houses in Wanaka opposed. The *Otago Daily Times* reports that The Upper Clutha Environmental Society has continued its opposition to a proposal to build houses at Peninsula Bay, because the developer has not set aside land it promised for a reserve. The developer has appealed the council's rejection of its private plan change. Read the full story here.

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Marae in Wairoa believes Hereheretau Station should be handed back to them.
RNZ News reports on the desire of the Whakaki Marae in the Wairoa district to recover the valuable Hereheretau Station which is owned by the Maori Soldiers Trust and was built on Maori land in the 1950s to support Maori soldiers who had returned from WW I. It is not covered by the Iwi and Hapu of Te Rohe o Te Wairoa Claims Settlement Bill (currently before the Maori Affairs Select Committee) because it is not Crown-owned land. Read the full story here.

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Remarkables ski field building wins awards. The *Otago Daily Times* reports that the $21 million base building at the Remarkables ski field, designed by Michael Wyatt, has won the New Zealand Commercial Project Supreme Award. Read the full story here.

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"Drastic" shortfall in houses built in Auckland. *The New Zealand Herald* reports that housing strategist Leonie Freeman's analysis of new Auckland residences built and completed shows that under half the number of new homes, required to be completed annually if the Unitary Plan's targets are to be met, are in fact being built. Read the full story here.

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DOC's tourism idea for ancient limestone caves criticised. *Radio New Zealand* reports that the proposal by the Department of Conservation to use the 35 million year old limestone cave system in the Kahaurangi National Park for a "Moa Town" tourism development has been criticised as being contrary to its conservation role. Read the full story here.

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Negative gearing explained in simple terms. *RNZ News* reports on and explains via political editor Jane Patterson the term "negative gearing". Labour's proposal is to do away with it and thus target landlords who own several properties by no longer letting them claim tax deductions against other income. Read the full item here.

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Private landowners making substantial financial commitments to QEII National Trust. *RNZ News* reports on the release of a report by the University of Waikato and commissioned by the QEII National Trust which demonstrates the financial generosity of covenanting landholders as they seek to protect native species, forests and wetlands on their land. Twenty-five million dollars per annum is spent with the largest expense being fencing. Read the full story here.

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Retirement complex cleared for construction by mediation. The *North Shore Times* reports that a residents group's appeal has been resolved by mediation clearing the way for Ryman Healthcare's 600-bed, six storey retirement complex planned for Devonport on Auckland's North Shore. Read the full story here.

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Government faults councils over Havelock North gastro outbreak. *Radio New Zealand* reports the Government has released its initial findings of an investigation into Havelock North's gastro outbreak in August 2016. The report criticises Hastings District Council and Hawke's Bay Regional Council for failing to safeguard the town's drinking water, and says that neither council had appropriate plans in place to deal with the campylobacter contamination. Read the full story here.

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Customary marine title too hard to prove - some Maori leaders. *RNZ News* reports on the contention of some Maori leaders such as Rihari Dargaville of Ngapuhi that the requirement of proving continuous occupation since 1840 without substantial interruption to get customary marine title is unfair given that the Crown had in many cases driven Maori off the land. Mr Dargaville said he and other Maori leaders would challenge this requirement before the Waitangi Tribunal. Read the full story here.

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Drilling in Wellington harbour in attempt to find fresh water. *Radio New Zealand* reports that a barge is to begin drilling in Wellington harbour in an attempt to find fresh water below the seabed. It is hoped a harbour bore will provide 30 million litres a day, supplying about 20 per cent of the city's needs. Read the full story here.

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53 apartment proposal for Takapuna. *The New Zealand Herald* reports that plans have been proposed for a total of 53 residential units, with two five-level apartment blocks filling two sites side-by-side at Tennyson Ave, Takapuna. Auckland Council has notified the application. Read the full story here.

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