Newslink Case-notes for August 2017 prepared 30 July 2017.

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Legislation Case-notes – August 2017

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".

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 "Your Environment".

This month we report on six court decisions covering diverse situations associated with subdivision, development and land use activities from around the country; most result from decisions made in district and unitary plans:

- A further decision of the Environment Court regarding a plan change to the Mackenzie District Plan to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use. This has been a continuing debate about the conflicts between farm production and landscape values in an important tourist area;
- A somewhat similar debate about subdivision, development and landscape values for a plan change affecting Waiheke Island;
- The continuing saga of a Kauri tree at Titirangi as reported in the press and TV. The Council's consent to fell it and build on the site had been surrendered by the owners but the debate continues;
- Two unsuccessful appeals, one by Wellington City Council against the declaration by the Environment Court in *Aitchison v Wellington City Council.* The Environment Court had declared that the Council's interpretation of the district plan rules for recession planes and definition of ground level at the boundary, was incorrect in the context of the purpose for protecting residential environment; The other appeal was by the Aitchison's neighbour against the award of costs against him by the Environment Court;
- A successful application for judicial review of a decision by Tasman District Council to further extend the lapse date of a consent to take and bottle water from a spring. Questions addressed included progress towards establishing the bottling plant, the effects on or consent of affected parties including iwi groups and changes in the environment or planning context.

CASE NOTES AUGUST 2017:

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Federated Farmers of New Zealand (Inc) v Mackenzie District Council - [2017] NZEnvC 53

Keywords: district plan change; objectives and policies, rule; farming; landscape protection

This was the eleventh decision of the Environment Court regarding Plan Change 13 ("PC13") to the Mackenzie District Plan ("the plan"). The purpose of PC13 was "to provide greater protection of the landscape values of the Mackenzie Basin from inappropriate subdivision, development and use". PC13 was notified before 1 September 2009 and therefore the applicable version of the RMA was that prior to the 2009 and 2013 amendments. The issue in the present case was whether, under s 293(1) of the RMA, to confirm Objective 3B(3) and the policies and methods in the latest lodged version of PC13. In contention was whether Objective 3B(3), which provided for the enabling of pastoral farming and rural subdivision, and the management of pastoral intensification (as defined) and agricultural conversion, throughout the Basin, should be made subject to, or conditional upon, Objective 3B(1). Objective 3B(1)
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concerned the recognition of the Basin's outstanding landscape qualities and recognition that there were areas where development beyond pastoral activities was inappropriate or to be avoided, and that some areas were more suitable for development, in particular areas of low to medium visual vulnerability. Federated Farmers of New Zealand (Inc) Mackenzie Branch ("FF") opposed making Objective 3B(3) subordinate to Objective 3B(1) and submitted that all objectives should be read together. Mackenzie District Council ("the council") supported making 3B(3) subservient to 3B(1) and to the other rural objectives in the plan.

The Court reviewed the history of the proceeding and stated the main issues were: where and to what extent, residential and other non-farming buildings could be allowed in the Basin; and whether pastoral intensification and irrigated farming should be managed. Evidence was considered as to the history and methods of farming, ecosystems and biodiversity values and the causes of ecological deterioration in the Basin. The Court concluded that the Basin contained 83 threatened or at risk species of native plant, that oversowing and topdressing could have adverse effects on ONL characteristics and that extensive areas of the Basin had been developed for pastoral intensification and agricultural conversion to the extent that the Mackenzie Agreement, which the Court found to anticipate 17,000 hectares of irrigated development in the Mackenzie Country as a whole, had been made meaningless by recent irrigation consents and developments. The Court addressed its powers under s 293 of the RMA, the relevant statutory instruments and considered, under s 32 of the RMA, whether the proposed Objective 3B(3) was the most appropriate way to achieve the purpose of the Act.

Weighing all the factors, the Court concluded that Objective 3B(3), expressed as subject to 3B(1) and to the other rural objectives, would be more appropriate for achieving the objectives and policies of the Canterbury Regional Policy Statement and the plan and for integrating the management of the resources of the Basin. The Court approved the inclusion and improvement of certain definitions in the plan and amendments to certain other policies, methods and rules. Accordingly, PC13 was confirmed in the form identified in the present decision.

Decision date 16 May 2017 - Your Environment 17 May 2017

(This case is one of several relating to a proposed plan change for the Mackenzie Basin. RHL.)

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Thumb Point Station Ltd v Auckland Council - [2017] NZEnvC 74

Keywords: district plan proposed; subdivision; jurisdiction; rule; assessment criteria

This was the final decision of the Court regarding appeals by Thumb Point Station Ltd ("TPSL") and others relating to the subdivision rules set out in the Proposed Auckland District Plan – Hauraki Gulf Islands ("the PP"). The EC made its interim decision on 13 August 2014. Since then there had been appeals to the High Court and a decision by the Court of Appeal. The Environment Court had reserved leave for the parties to address four topics regarding the PP.

The Court now addressed the four topics. The first was whether there was scope to include "alterations and additions" in the new restricted discretionary rule for non-production-related buildings in Landform 5. The Court stated that Auckland Council and TPSL had agreed that such an inclusion was beyond scope because the PP expressly distinguished between "construction and relocation" on the one hand, and "additions and alterations" on the other and it could not be argued that the latter were implicitly included in the former. Further, other parties might have wished to participate if they had known of the inclusion. The second topic was whether the new "construction and relocation" rule applied to all visitor accommodation in Landform 5. The parties now confirmed that the rules should apply to all visitor accommodation of whatever size or scale. The third topic concerned the wording of an additional assessment criterion concerning multiple dwellings and Landforms 6 and 7. The parties now confirmed that there should be an additional assessment criterion and submitted that there was scope to add it. The fourth topic was whether there should be a specific (additional) non-notification rule regarding the new multiple dwelling rule. The parties now submitted that there should be such a specific rule. The Court agreed to the responses, suggestions and amendments of the parties and to certain further minor tidy-ups of wordings. The relevant provisions were attached to the decision as Appendix A. There was no order for costs.

Decision date 9 June 2017 - Your Environment 12 June 2017
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Maehl v Lenihan _ [2017] NZEnvC 78

Keywords: enforcement order interim; tree protection

A Maehl and W Charlesworth ("the applicants") applied *ex parte* to the Environment Court for an interim enforcement order against J Lenihan, J Greensmith and A Gore, as trustees of the Lenihan and Greensmith Family Trust ("the respondents"). The applicants lived at 38 Paturoa Rd, Titirangi. The respondents owned a site at 40 and 42 Paturoa Rd ("the site"). The applicants sought to protect a large kauri tree ("the tree") on the site, which had been the subject of other proceedings and publicity in relation to the tree. The site was noted in the proposed Auckland Unitary Plan ("AUP") as originally notified as part of a significant ecological area, but that notation was removed in the now-operative-in-part decisions version of the AUP. The background was that Auckland Council ("the council") had granted the respondents resource consents for building a house on the site and related clearance of vegetation, including the tree. The applicant had applied for judicial review of the decision to grant the consents, and the High Court had made an interim order on 23 December 2015 prohibiting the respondents from taking any further actions relating to the consents or the tree. The respondents had now surrendered the resource consents relating to the site. The applicants anticipated that as a result the judicial review proceedings would be discontinued, including the interim injunction made. Accordingly, the applicants now applied for an interim order to maintain the protection of the tree until a substantive hearing could be held in the Environment Court.

The Court considered the basis under which an order might be sought under s 314(1)(a)(ii) of the RMA. The applicants said in an affidavit that they were seeking reinstatement of the SEA notation of the site and to have the tree listed in the schedule of notable trees in the AUP. After reviewing s 320 of the RMA, the Court stated it was satisfied that the situation was such that the making of the order *ex parte* was appropriate. The High Court order maintained the status quo in relation to the tree and, following the surrender of the resource consents, an order by the Environment Court would preserve the status quo until the substantive issue might be determined. The Court noted that an undertaking as to damages had been given by Mr Maehl. The Court made the orders as provided in the decision, but ordered that these were not to commence unless and until the High Court order lapsed or was discharged. Costs were reserved.

Decision date 21 June 2017 - Your Environment 22 June 2017

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Wellington City Council v Aitchison _ [2017] NZHC 1264

Keywords**: **High Court; district plan; interpretation; rule; fencing

Wellington City Council ("the council") appealed against the Environment Court ("the EC") decision in *Aitchison v Wellington City Council* [2015] NZEnvC 163, (2015) 19 ELRNZ 319 ("the declaratory decision"). In the declaratory decision the EC determined that the construction of a structure by Mr and Mrs Walmsley ("W") along the boundary of W's property with that of Mr and Mrs Aitchison ("A") was not a permitted activity under the district plan ("the plan"). Subsequent to the declaratory decision, the EC ordered the removal of the structure ("the enforcement decision"), with which orders W complied.

The Court reviewed the lengthy history of the dispute and noted that A were loath to continue defending their position in light of the EC decisions and the withdrawal by W of their appeal. However, the council pursued its appeal against the declaratory decision and the High Court, in its decision of 16 February 2016, found that the council had a legitimate interest in the issues raised by the appeal and there was a wider public interest in the interpretation of the plan. The Court now addressed the relevant plan provisions, noting that the plan sought to provide a reasonable level of residential amenity. Standard 5.6.2.8 governed and defined building recession planes, while 5.6.2.8.2 ("the rule") provided that each recession control line should rise ... "from ground level at the boundary". The plan defined ground level for the purposes of measuring recession planes as the existing ground level at the boundary and further stated that where a retaining wall or structure was located on the boundary, the ground level was to be taken "from the front surface of the wall/structure at the boundary". The Court stated that the present appeal concerned the meaning of that definition of ground level. The council argued

that the EC erred in its interpretation of the definition, and expressed concerns that the result was illogical and would result in absurd outcomes for Wellington property owners. The council argued that the ground level should be that on A's side of the existing retaining wall (which was higher than W's side of the wall.). A however argued that the EC was correct in its interpretation and that the front surface was to be measured from W's side.

The Court noted authority to the effect that that a purposive approach to the interpretation of plan rules was appropriate and that regard must be had to the immediate context of a rule. Addressing the meaning of "located on the boundary" in the rule, the Court considered the council's submissions that at places the retaining wall was up to 8 cm on either side of the boundary. The Court now found no error in the EC's view that given the very close degrees of proximity, the purpose of the plan provisions and the practical impossibility of pouring a concrete wall to millimetric accuracy, the reasonable informed person would say that the wall was either on or at the boundary. The High Court stated that a boundary was a conceptual two-dimensional vertical plane and the space theoretically occupied by the boundary was physically occupied in the present case by the wall. The wall angled away by a few centimetres at either end, but it was still available to the EC to find the wall was "located on" the boundary. In practical terms the gap at either end was insignificant and inconsequential, and in policy terms the EC's approach was consistent with the objects and purpose of the building recession plan standard.

The Court then considered from which point the vertical measurement was to be taken and to this end reviewed the Hearing Committee report on the Wellington District Plan Change 72 ("PC72") residential area review. The Court concluded that the intention behind the definition under consideration could not be ignored. This was to measure ground level from the front face of a retaining wall rather than from the level of the ground behind the retaining wall. Further, the building recession planes were intended to manage access to sunlight to protect residential amenity. The Court concluded that the correct interpretation of the definition was one which did not overlook any words used and gave the words their proper meanings in context, including the broader context of the residential rules in the plan. The Court stated that the council had presented no evidence in support of its contention that the EC's approach would lead to practical difficulties for administration of the standards.

The Court noted that the EC had ordered the removal of a structure described as a contrivance undertaken to get around rules, whose adverse effects were extreme and severe and were offensive and objectionable. On the other hand the council continued to maintain that the structure was compliant and permissible. The Court now said that for a structure such as in the present case to be classed as a "permitted activity" was nothing short of anomalous, and its effects were precisely the kind intended by PC 72 to be avoided. The appeal was dismissed.

Decision date 22 June 2017 - Your Environment 23 June 2017

Walmsley Enterprises Ltd v Aitchison _ [2017] NZHC 1504

Keywords: High Court; costs

The High Court considered an appeal and a cross-appeal against the award by the Environment Court ("the EC") on 10 June 2016 ("the costs decision") of $72,500 in reimbursement costs against Walmsley Enterprises Ltd ("Walmsley") in favour of P and S Aitchison ("Aitchison"). The matter concerned a structure built by Walmsley on the retaining wall between the Walmsley property and that of Aitchison in Wellington. The EC, in its decision of 22 January 2016 ("the enforcement decision") ordered the removal of the structure, finding it was dominant and overbearing and had severe and significant adverse effects on Aitcheson's residential amenity. Walmsley now appealed the order for costs, submitting no costs, or that indemnity costs in a lesser sum, should have been awarded. Aitchison cross-appealed, claiming that indemnity costs in a greater sum should have been awarded.

The Court considered the background to the case and the findings of the EC in the costs decision. Addressing first the appeal, the Court noted that the errors of law which Walmsley asserted the EC had made included: failure to consider that Walmsley relied on expert advice that the adverse effects of the structure had already been considered by the district plan and

that a defence under s 319(2)(b) of the RMA existed; failure to consider that the case was novel or unique; imposing costs as a penalty; and imposing full indemnity costs. The Court stated that the issue arising from s 319(2)(b) was characterised as a jurisdictional issue in the enforcement decision, where the EC had rejected the argument because it would be absurd if the words "expressly recognised" in the section meant that the council had to consider the effects of its district plan on every property in the district when making rules or imposing standards. In addition, the EC had concluded that the provision was not directed at properties but at adverse effects, and there was no evidence that the council had expressly recognised the type and degree of effects experienced in the present case. The Court now found that it was incorrect to contend that the effects of the structure had been considered and were expressly recognised, and accordingly the first ground of appeal failed. Regarding the second ground, the Court stated that, on a reading of the enforcement decision, the EC was engaged in a consideration of the application of s 319(2)(b) of the RMA to the facts, and not in resolving any legislative uncertainty. The enforcement issue was founded on ss 17 and 319 of the Act and the determinative issue arose under s 17(3)(a). The EC was engaged in an orthodox application of statutory provisions to particular facts, and there was no error. The second ground failed. Turning to the third ground of appeal, the Court considered Walmsley's submission that the EC's assessment of costs was influenced by the idea of punishment. The Court found that the EC Judge had articulated and applied the relevant principles applicable to s 285 of the RMA and there was no error of law made. The third ground was declined. Similarly, the Court found that there was no error made by the EC in its approach to indemnity costs. Having found that such costs were arguably appropriate, the Judge had exercised the broad discretion available to him on a principled and correct basis. In addition to taking into account the relevant *Bielby* factors, the Judge emphasised the aggravating feature of Walmsley's knowledge of the adverse effects of the activity. However, it was clear from the costs decision that the indemnity costs award was not punitive.

Turning to consider the Aitchison cross-appeal, the Court considered whether the EC erred in its calculation of the sum to be awarded. Citing relevant case authority, the Court determined that the EC was entitled to quantify the costs awarded by reference to a median hourly rate reasonably applicable to the work completed and that the Judge in the present case had not erred in its quantum. Further, the EC was entitled to deduct the specified costs of outside counsel and of attendances prior to the issue of the declaration proceedings of 8 May 2015. Accordingly, the appeal was dismissed. The cross-appeal was dismissed. The Court expressed the view that costs in the present case should lie where they fell, but stated that the parties might file memoranda.

Decision date 21 July 2017 - Your Environment 24 July 2017.

(For the previous reports see Newslink December 2015 and April and May 2016. The decisions on these cases emphasise the importance of rules being clear and capable of consistent interpretation to meet the objectives and policies of the district plan – RHL.)

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Ngati Tama Ki Te Waipounamu Trust v Tasman District Council - [2017] NZHC 1081

Keywords: High Court; judicial review; water take and use; consent lapse; iwi; Maori values

The High Court considered an application by Ngati Tama Ki Te Waipounamu Trust ("Ngati Tama") for judicial review of the decision by Tasman District Council ("the council") of 22 February 2016 ("the Decision"). The Decision was to grant, to Kahurangi Virgin Waters Ltd ("KVW"), a third extension of the lapse date of a water take consent originally granted on 21 February 2005 ("the consent"). The council had previously, in 2009 and 2013, granted two extensions to the consent lapse date. KVW was a limited liability company and a Maori-Pakeha joint venture with two other iwi and the purpose of the water take was to establish a bottling plant. Ngati Tama claimed the council erred in the Decision by: applying the wrong legal test under s 125(1A)(b) of the RMA; failing to have regard to a mandatory relevant consideration being the failure to assess the effect of the Decision on changes to the Tasman Resource Management Plan ("the plan") which occurred since the date of the consent; relying on erroneous information; failing to recognise Ngati Tama as affected persons; and failing to have regard to the proper statutory test.
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The Court reviewed the background, the consent terms, the two previous extensions and the terms of the Decision before considering the provisions of, and case authority relating to, s 125 of the RMA. Noting the findings in *Katz v Auckland City Council* (1987) 12 NZTPA 211 and *Body Corporate 97010 v Auckland City Council* [2000] 3 NZLR 513 (CA), the Court stated that the purpose of s 125 of the Act was to provide a measure of certainty regarding consented resource use, to facilitate ongoing sustainable management. The Court considered Ngati Tama's challenges to the Decision under each of the mandatory provisions set out in s 125(1A)(b) of the Act. First, the Court considered whether, under s 125(1A)(b)(i), the council had taken into account whether "substantial progress" or effort had been, and continued to be, made towards giving effect to the consent. The Decision recorded that there had been "sufficient progress" and Ngati Tama claimed that this was not the correct test. The Court observed that, while "substantial progress" under the section did not require physical progress on site, there was in reality in the present case an obvious link between the consent and the bottling plant and it was wrong of the council to ignore what progress had been made in this regard. The Court concluded that the council did not take into account the mandatory consideration of whether substantial progress had been made, and this was a material error.

The Court then addressed the second issue, under s 125(1A)(b)(ii) of the RMA, which was whether KVW had obtained approval from persons who may be adversely affected. The council had recorded that the relevant affected parties were those affected by the additional time sought by the lapse extension. However, Ngati Tama claimed that: cultural effects were not considered when the original consent was granted; Ngati Tama had objected to the extension applications; and the Ngati Tama Treaty Settlement recognised the important cultural relationship between that iwi and the affected water resource. The Court considered the relevance of the changed context claimed by Ngati Tama including the Ngati Koata, Ngati Rarua, Ngati Tama ki Te Tau Ihu, and Te Atiawa o Te Waka-a-Maui Claims Settlement Act 2014 which gave effect to provisions in the Deed of Settlement for Ngati Tama and three other iwi. Ngati Tama claimed that in the light of that context, the council should have taken into account its significant relationship with the waters affected by the consent. The Court agreed with the council's argument that the original consent was given under s 104(3) of the RMA, and Ngati Tama had approved the original consent. However, the Treaty Settlement had reinforced Ngati Tama's position as a party who may be adversely affected by the granting of the extension, and it was clear that its position should have been considered. Ngati Tama's position was not correctly analysed as to the extent to which it was an affected party, and that incorrect analysis precluded the necessary consequential assessment as to the ways in which Ngati Tama was potentially affected.

The third issue addressed by the Court was whether, under s 125(1A)(b)(iii) of the RMA, the effect of the extension on the policies and objectives of the plan had been properly considered by the council in the Decision. In the Decision the council recorded that there had been no changes to the relevant plan provisions which related to the site or the proposal. The Court referred to the Court of Appeal decision in *Katz*, which had stated in essence that councils may undertake a re-appraisal of the proposed activity, and not merely of the effects of the extension, in light of any changed planning situation. Further, changes to such a planning situation might include changes to the environment, social and cultural context and legislative background and also scientific understanding. The Court now accepted that there were no material changes to the plan relating to recognition of tangata whenua values, water as waahi tapu and spiritual values. The Court found that, although none of the grounds pleaded by Ngati Tama under s 125(1A)(b)(iii) had been established, nevertheless the changed context, pleaded under subs (1A)(b)(ii), was of relevance to the planning situation, and cultural and spiritual values might properly fall to be considered under subs (1A)(b)(iii).

The Court concluded that it should exercise its discretion to grant judicial review. The council was required to take into account the matters listed in subs (1A)(b)(i), (ii) and (iii) of the section and, because of the identified errors, it did not do so. The Decision was not made in accordance with the RMA. The Court set aside the Decision and ordered that the extension application was to be reconsidered by the council. The Court made orders as to any submissions for costs.

Decision date 7July 2017 - Your Environment 10 July 2017

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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 2017

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Finance Minister: Land regulation drives Auckland house prices.

Land use regulation is responsible for up to 56 per cent of the cost of an average house in Auckland according to a new research report quantifying the impact of land use regulations, Finance Minister Steven Joyce said.

"This is a comprehensive report that underlines the importance of the changes central and local government have been making to land use regulations to boost housing supply. Urban planning, council regulations, and our local infrastructure funding system, have all been driving up the cost of housing in our major cities," Mr Joyce said.

The research report, *Quantifying the impact of land use regulations: Evidence from New Zealand* was commissioned from the Social Policy Evaluation and Research Unit (Superu) in 2016 and has been released on 20 July 2017.

Superu looked at house prices in seven New Zealand cities (Auckland, Hamilton, Tauranga, Palmerston North, Wellington, Christchurch and Queenstown) and apartment prices in Auckland and Wellington between 2012 and 2016.

Findings in the report include:

- Land use regulation is hampering the flexibility of housing supply to respond to demand pressures from population growth.
- Local geography is likely to play a role, but even in New Zealand cities with plenty of flat land, prices are higher than might be expected in a well-functioning market.
- The report finds land use regulation could be responsible for 15 to 56 per cent of the cost of an average dwelling across a range of New Zealand cities. In Auckland, land use regulation could be responsible for up to 56 per cent or $530,000 of the cost of an average home.

"The results in the report are consistent with the findings of the recently released Productivity Commission report on *Better Urban Planning* and the National Policy Statement on Urban Development Capacity," Mr Joyce said.

- Please click on the links for a full statement and full report. Full Report Media Release

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Uganda's plan to allow forceful takeover of private land stirs anger.

(Reuters) - KAMPALA - A Ugandan government plan to change its constitution so it can forcefully acquire private land for public projects has ignited widespread anger, with critics saying powerful officials and individuals would use it as an excuse to grab land.

The East African country expects to start pumping crude oil in 2020 and petroleum-related infrastructure, including an export pipeline, will require the public acquisition of private land.

Under the proposed constitutional amendment, if a private owner disputes the state valuation of their property, the government would be allowed to forcefully take over the land and proceed with its plans while an adjudication proceeds.

"Any investor who can make it in the long queue to State House (the president's residence) will then be given free land anywhere," Nicholas Opiyo, a Kampala-based lawyer and human rights activist, told Reuters.

"The cronies of this regime, the financiers of this regime will then line up and just get free land, which is dangerous for citizens."

But the spokesman of President Yoweri Museveni, who has been in power for three decades and is often accused by critics of human rights violations, dismissed such fears.
"This law has nothing to do with President Museveni's personal interests ... Trying to personalise it is a cheap shot by activists," said the spokesman, Don Wanyama.
"Fair and Adequate"
Current rules allow the government to take over private land only after prompt payment of "fair and adequate" compensation.
When private land is earmarked for public projects, a chief government valuer determines its worth, which the government then pays to its owner. If the value is disputed, the owner goes to court and the government cannot acquire the land until a resolution is reached.
Officials in various government departments have complained in recent years that lengthy litigation is stalling major public works.
Completion of a Chinese-funded expressway connecting the capital Kampala to Uganda's only international airport has been repeatedly delayed due to protracted land disputes.
A parliamentary committee is currently scrutinising the proposed constitutional amendment.
Local media often carry reports of poor peasants being evicted from their land by influential individuals using security personnel. Sometimes conflicts turn violent as enraged landowners try to protect their land from encroachment.
Opiyo said Museveni had always wanted full control over land resources in Uganda.
"It's Museveni's personal motive to have full and unfettered control to acquire and use land in any part of the country in any way he so wishes," he said.
Officials have argued that the amendment would deter speculators who rush to buy land in proposed locations for public projects to profit from inflated compensation.
But this argument has not impressed rights activists.
"Who are the speculators on land? It's not ordinary Ugandans, it's powerful government actors," said Sarah Birete, programme director at the Centre for Constitutional Governance, a Ugandan rights pressure group. For the latest news visit Reuters.com

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Hurunui Water Project seeks requiring authority, worries farmers. *Stuff* reports that in north Canterbury a group of about 20 farmers are worried by the confirmed application by the Hurunui Water Project (HWP), seeking to build an irrigation project, for a requiring authority which would include compulsory land buying powers. The farmers are nervous they will not be adequately compensated if land is taken and say the HWP has gone back on its word about not applying for a requiring authority. Read the full story here.

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Christchurch City Council plans to buy properties for flood mitigation scheme. *The Press* reports that Christchurch City Council has decided to buy 13 Pages Rd properties so it can create two stormwater storage ponds to reduce the risk of flooding to about 60 properties. Read the full story here.

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Gudgeon gives Kiwi Property plenty of notice. Stuff reports that Chris Gudgeon, CEO of Kiwi Property, New Zealand's largest listed property company, has signalled he will step down in September 2018, giving the board plenty of time to find a successor. Shopping centres, land and office buildings make up Kiwi Property's $3 billion portfolio. Read the full story here.

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High Court upholds ruling limiting quarrying on Saddle Hill. The *Otago Daily Times* reports that the High Court has upheld an Environment Court decision which found a Saddle Hill quarry was limited to 50,000 cubic yards of rock for the purpose of building a new airport at Momona based on a consent issued in 1960. Read the full story here.

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Wet weather and asbestos delay Government housing project. *Stuff* reports that a wet winter and surprise asbestos at the site have pushed the estimated completion of the first stage of work for the Government's Northcote Development on Auckland's North Shore date to September or October. The $750 million project will demolish 300 Housing New Zealand properties and build up to 1200 in their place, over the course of five years. Read the full story here.

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Floodwaters deposit 'toxic sludge' in Christchurch. *Radio New Zealand* reports that the Canterbury medical officer of health Dr Alistair Humphrey said that flood-hit households in

Christchurch were potentially contaminated with sewage and were unsafe to live in. Read the full story here.

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$200m Auckland hotel aimed at healthy travellers. *The New Zealand Herald* reports that a 200-room EVEN hotel is planned for Auckland's CBD. The EVEN brand is based on the concepts of eat well, rest easy and keep active. Read the full story here.

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EPA seabed mining decision deferred again. The *Otago Daily Times* reports that the Environmental Protection Authority has again postponed its decision on Trans Tasman Resources's application for a seabed mining consent to mine iron sands in the Taranaki Bight. Read the full story here.

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LINZ: Lease allows progress on regeneration projects. A lease of 68 hectares of Crown-owned land will allow key regeneration projects to progress in Waimakariri. Land Information New Zealand (LINZ) has reached an agreement with the Waimakariri District Council to lease residential red zone land.

"The lease of the land will enable the Council to continue their work on projects for the community as set out in the Recovery Plan for the district," said LINZ Group Manager Canterbury Recovery Jeremy Barr.

"The land will eventually be divested to the Council, and will allow for work such as surveys and infrastructure rebuild to start."

"Our role is to ensure Crown land is transferred to the Council and Te Kōhaka o Tūhaitara Trust in the simplest way to ensure future uses will be implemented effectively," Barr said.

"We are working on the land divestment plan to ultimately transfer the leased land into Council ownership by mid 2018."

LINZ supports the Recovery Plan direction to implement intended long-term uses of the residential red zone to facilitate recovery.

The Council will now be responsible for carrying out maintenance of the land in the regeneration areas covered by the lease.

- Please click on the link for full statement - Media Release

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Tower block to accommodate students and retirees proposed for Tauranga. The *Bay of Plenty Times* reports that architect Mark Wassung has put forward the idea that a $45 million high-rise development in Tauranga should accommodate both retired people and students, in order to give older people an alternative to living clustered with other retirees. Read the full story here.

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Summerset buys Christchurch land - proposes another retirement village. *The New Zealand Herald* reports that Wellington-based Summerset Group has bought 9.5 hectares in Hawthornden Road in Avonhead, Christchurch to build another retirement village, its third in Christchurch, to cater for the predicted increase in the city's population aged over 75, which is expected to be 32,000 by 2023. Read the full story here.

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Case about lease covenant remitted to High Court. *Stuff* reports on a dispute between property developer Brian Green and Bindon Holdings Ltd concerning the former's obligations under a lease from Bindon to to keep the building, fences, drains and other structures in good and tenantable condition. In the Court of Appeal Justice Denis Clifford has found the High Court judge overlooked a section in the Property Law Act which requires the tenant to keep premises in good condition but not to a standard that was not there at the beginning of the lease. The case has been remitted to the High Court. Read the full story here.

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Council to review zoning after Otago flooding. *Radio New Zealand* reports that Dunedin's mayor says that the recent catastrophic flooding will mean the council will have to reconsider plans to rezone more land in the Taieri Plain for residential subdivision. Read the full story here.

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No return to Auckland urban sprawl despite new Government funding for housing on city fringe. *Radio New Zealand* reports that Mayor Phil Goff says that the recently announced

central government funding to accelerate house construction in Auckland's rural fringe will not mean a return to urban sprawl in the city. Read the full story here.

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258 submissions on QLDC rezoning proposals. The *Otago Daily Times* reports that hearings on the Queenstown Lakes District Plan rezoning proposals are under way. These include Skyline Enterprises Ltd, which wants a new commercial tourism and recreation sub-zone, covering its facility at Bob's Peak, instead of the proposed plan's rural zone for the land which is now within an outstanding natural landscape and two reserves. Read the full story here.

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Auckland Airport aims to lengthen planned second runway. *Stuff* reports that Auckland Airport will seek permission to lengthen its planned second runway. The revised runway would be nearly a kilometre longer than the original plan. Read the full story here.

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Battery-powered trains for Auckland. *Radio New Zealand* reports that Auckland looks likely to have a new fleet of battery-powered trains by 2019. Seventeen hybrid trains would run off either electricity or high-tech batteries that could carry them to Pukekohe. Read the full story here.

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New home on Maori ancestral land. *The New Zealand Herald* reports on the new home the Motutere family have been able to build on ancestral Maori land at Te Puna, Bay of Plenty. They received assistance from Habitat for Humanity Tauranga and they also received financial assistance from Te Puni Kokiri and the Kainga Whenua Loan Scheme. Read the full story here.

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Construction to start on new West Coast walk. *The New Zealand Herald* reports that construction will start this month of a new $10 million, 55 km traverse for mountain bikers and walkers which will link Blackball with Punakaiki on the West Coast. Read the full story here.

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Concerns about Marlborough Sounds ecology leads to ban on new wildlife permits. *Radio New Zealand* reports that the Department of Conservation has imposed a 12-month moratorium on new wildlife viewing permits in the Marlborough Sounds because of concerns about the decline in numbers and vulnerability of marine mammals. Read the full story here.

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Christchurch City Council turns attention to residential eyesores. *Stuff* reports that Christchurch City Council will release a list of problematic central city residential sites, such as those containing derelict buildings. The council is warning owners to take action before they are publicly identified. Read the full story here.

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