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Legislation Case-notes April 2018

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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".

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 nine appeals covering diverse situations associated with subdivision, development and land use activities from around the country;

- An appeal against refusal of consent by Auckland Council of an application to establish a rural "hamlet" between Whitford and Beachlands, east of Auckland;
- Conviction of several people for excavation of holes in a heritage listed stone wall at Epsom, Auckland;
- Two cases involving a developer who had been successfully prosecuted by Auckland Council seeking enforcement orders against the Council;
- A unsuccessful application for costs against Central Otago District Council;
- The decision of the environment Court on an appeal against the proposed Airfield Height and Noise Overlay to the Thames-Coromandel District Plan applicable to the Airfield at Pauanui;
- Three decisions involving over rules for recession planes and definition of ground level between two residential properties in Wellington;

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CASE NOTES APRIL 2018:

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Ahuareka Trustees (No 2) Ltd v Auckland Council - [2017] NZEnvC 205

Keywords: land use consent; subdivision; district plan integrity; regional plan; objectives and policies; rural

Ahuareka Trustees (No 2) Ltd ("ATL") appealed against the decision by Auckland Council ("the council") to decline land use consent to ATL for a proposal to subdivide its 80 ha property at 650-680 Whitford-Maraetai Rd, Whitford ("the property"). The proposal was to establish a hamlet of 186 households and ancillary buildings, a pub and restaurant, retail and commercial units and carpark. The property was within the Countryside Living Zone ("CLZ") of the Auckland Unitary Plan – Operative in Part ("the UP"), in a separately identified area called the Whitford Sub-Precinct B ("precinct B"), which was outside the Rural Urban Boundary ("RUB") in the UP. The RUB identified land in Auckland "potentially suitable for urban development". In 2011 ATL obtained consent to subdivide the property into 26 lots, which consent had not been given effect to but remained "alive" until 21 December 2019. ATL argued now that the present proposal would result in a better environmental outcome than the consented subdivision.

The Court considered the background to the proposal and the design concept for the development. The Court stated that there was no challenge as to the quality of the proposal from a purely architectural or aesthetic viewpoint. The Court noted that the council considered the proposal as a non-complying activity and had "bundled" the various land use activity aspects. However, after considering s 88A of the RMA, the Court found that s 88A did not protect the status of activities where a district plan had changed and new provisions were operative, as was the present case. The Court disagreed with submissions that the proposal was overall a non-complying activity. Instead, the Court found that that bundling was not

appropriate and concluded that that those aspects of the proposal other that the restaurant and cafe should be considered as discretionary. The restaurant and café were still uncertain and ancillary to the residential component and were to be considered as non-complying. Consequently, the proposal was determined under ss 104 and 104B of the RMA.

Regarding the environmental effects of the proposal, the Court adopted the council findings that the effects would be minor or less than minor. The matter at issue related to the relevant provisions of the UP, which the Court determined contained the relevant provisions of the regional and district plans and the Regional Policy Statement. Such provisions: sought to avoid urbanization of land outside the RUB and existing rural towns and villages; and provided for new villages to be established outside such locations only by means of a structure plan and plan change process, and not through the resource consent process. The Court considered the UP provisions, including Chapters B2.1, B2.2, B2.3, B2.4, B2.6 and B2.9, which related to the integrated planning of land resources, infrastructure and development, the need to contain urban growth to achieve a compact urban form and to concentrate urban growth and intensification within the RUB and to provide for a hierarchy of centres. The Court considered the issue of whether the proposal constituted an urban activity, urban development or urbanisation, noting that such determination was made difficult by the fact that there was no definition of any of the terms in the UP. The Court confirmed its understanding of the terms: urban as meaning of or pertaining to or constituting a city or town; occurring in or characteristic of a city or town; urbanise as meaning to make or become urban in character or appearance; develop into an urban area, or cause to lose rural character or quality. In its consideration, the Court took into account the provisions of the New Zealand Urban Design Protocol ("the NZUDP") regarding urban design. The Court agreed with ATL's submission that there was no clear urban/non-urban dichotomy but that there was a continuum to be considered in each case. After considering extensive expert evidence, the Court concluded that the density the proposed development was relevant and that in the present case the degree of density could only be described as urban in nature. Further, the Court rejected ATL's submission that the retention of a remnant of rural area free of development altered the proposal's urban nature. While there would be no municipal water, wastewater or stormwater systems in the development, there would be reticulated communal provision of all such services. The Court concluded that, given the intensity and nature of the development, the proposal was "urbanisation". Further, the Court found that the proposal did not satisfy the requirements of the UP relating to environmental maintenance, mitigation and enhancement in precinct B. The shortfall of enhancement planting proposed by ATL was so significant as to be contrary to the objectives and policies to which the Court was required to have regard.

The Court then considered the issues of plan integrity and precedent, having regard to two specific areas. The first was that the NZUDP stressed the relationship between places. The proposal was in an area which was under considerable pressure for residential development and domestication. ATL proposed an additional village outside the RUB where the UP sought compact urban form. The second area was the shortfall of the proposal in meeting the environment al enhancement requirements of the UP. This put the integrity of the plan at risk.

The Court found that the proposal was a direct challenge to the intention of the UP for a hierarchy of residential developments to occur in residential zones within a compact urban form. While any adverse effects would be no more than minor, the Court found that the consent could not be granted under s 104(1)(b) of the RMA because the proposal was directly contrary to stated objectives of the UP. Finally, under s 104(1)(c) of the RMA, the Court held that the proposal would undermine the UP integrity and provide a precedent for further urbanisation of an area already subject to growth pressure. The appeal was declined. Costs were reserved.

Decision date 31 January 2018 Your Environment 1 February 2018

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Auckland Council v Liu - [2017] NZDC 22882

Keywords: prosecution; earthworks; district plan; heritage values

The Court sentenced the three defendants D Liu ("Liu"), K Parsons ("P") and Roncon Pacific Hotel Management Ltd ("the company") who had been found guilty at a defended hearing. The charge, laid by Auckland Council ("the council") was of excavating holes into a basalt stone retaining wall at 76 Gillies Avenue without a resource consent. The wall was part of the structure of a Category B scheduled place under the proposed Auckland Unitary Plan ("the AUP") and the works were an offence under ss 9 and 338(1)(a) of the RMA. The issues determined in the present decision included whether: either Liu or P should be discharged without conviction; the context for the level of sentence should be all possible offences, all
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Category 3 offences as defined by s 6 of the Criminal Procedure Act 2011 ("the CPA"), or the more limited context of all similar offences under the RMA; and the gravity of the offending was reduced by the complexity of the AUP rules or offset by the work done to reinstate the wall.

After considering the submissions by the council and the defendants, the Court considered the applications for discharge without conviction. In relation to the gravity of the offending, the Court rejected submissions that the present offending was to be considered against the whole range of all offending against New Zealand law. This was because such an approach would be contrary to the purposes of sentencing as it would tend to make almost any RMA offending seem less grave by comparison. The Court stated that the correct context of an offence was to be ascertained by reference to the statute that created it rather than to other statutes. The Court accepted that the relative gravity of the offending was at a moderate level in the present case. The Court acknowledged that damage to or destruction of a protected heritage item could have wider social and cultural effects. In this case the wall had been repaired and the steps reconstructed; however, the damaged item was no longer the same as it had been and the integrity of the thing had been changed, with its heritage value. Addressing the direct and indirect consequences of a conviction, the Court did not accept submissions that the offending was simply due to naivety on the part of Liu and P. The wall was scheduled in the AUP and the subject of a covenant registered against the title. Further, the Court stated that it was in the nature of the criminal justice system that a conviction would carry a sting with it for the offender and also be a black mark on one's record. It did not by itself result in an effect which was out of all proportion to the gravity of the offending. The Court was not satisfied that the potential for prevention of travel to other countries was likely to be as great as that submitted by the defendants; offences under the RMA did not involve "moral turpitude". The Court was not persuaded that the consequences to Liu and P were such as to justify discharges without conviction.

The Court considered the application by the company for a conviction and discharge. The RMA treated principals and agents in the same way, under s 340, and the Court was not satisfied that there were any sentencing reasons to treat Liu and P any differently from the company. The Court accepted that a starting point of $10,000 on a global basis was appropriate, and that the fine should be apportioned between Liu and P in the ratio of 80 to 20, with no apportionment to the company. An uplift of 20 per cent was justified in respect of Liu in respect of his recent previous conviction under the RMA, and a discount of 10 per cent was appropriate for P who had no such record. In addition, Liu was given a discount of 20 per cent for the voluntary work done in reconstruction the wall and steps. Accordingly, Liu was fined $8,000; P was fined $1,800; and the company was convicted and discharged. Ninety per cent of the fines were to be paid to the council.

Decision date 24 November 2017 Your Environment 27 November 2017

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Lau v Auckland Council _ [2017] NZEnvC 178

Keywords: security for costs; enforcement order

The Environment Court considered the application by E Lau ("Lau") for enforcement orders against Auckland Council ("the council") and the cross-application by the council for security for costs against Lau. The enforcement orders sought by Lau were: prohibiting any homeless people from staying at bus stops, streets, parks or reserves or any other areas; prohibiting the council from issuing any building or resource consents in any area where there was a combined sewer and stormwater drainage system; within four months redirecting the combined sewer and stormwater system to a proper sewage treatment system; and vacating all tenants or occupants from leaky houses. The council opposed the making of the orders and requested a stay of proceedings until any order for security for costs was complied with.

The Court stated that there had been a prehearing conference to address procedural matters, including the fact that the enforcement applications against the council had no procedural connection to any other enforcement proceedings brought by the council against Lau, nor was it connected to the current criminal proceedings in the District Court against Lau. The Court stated that the scope of its jurisdiction was confined to matters listed in s 314 of the RMA and did not include the management or control of public places. The Court had explained at the conference to Lau that it had no authority to make the orders sought by him and made directions to Lau as to lodging evidence. A hearing date of 27 October 2017 was set. However, Lau requested a deferral until 27 November 2017, which was refused. At 7.40 am on 27 October 2017, Lau sought an adjournment on the ground that he was unwell, supported by a doctor's certificate. The Court made further directions to Lau on the same morning, and decided
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to determine the council's application for security on the papers.

The Court considered its power under s 278(1) of the RMA, and under r 5.48(1)(b) of the District Court Rules, to require provision of security for costs. In the context of the RMA, the Court noted the relevant principles and criteria, derived from case authority, against which the Court's discretion might be exercised. The Court now considered affidavit evidence from a council compliance specialist and enforcement officer and from a legal executive. The evidence was that the costs awards against Lau now totalled $380,000 and that Lau had not paid any part of these awards. Further, searches of companies related to Lau revealed no assets belonging to Lau and that he was presently facing bankruptcy proceedings. The council submitted that Lau's enforcement orders lacked substantive merit, were flawed in form and substance, had little chance of success and that Lau had a history of conducting vexatious litigation.

The Court was satisfied that the threshold for making an order for security was met, and also satisfied that it should exercise its discretion to make such an order. The proceeding lacked merit and was beyond the Court's jurisdiction. The Court considered it appropriate to order the amount of security sought by the council, being $11,000. The proceeding was stayed pending the payment of security for costs.

Decision date 1 December 2017 - Your Environment 5 December 2017

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Auckland Council v Lau - [2017] NZDC 26282

Keywords: prosecution; procedural; evidence

The defendants A Lau ("Lau"), Jesus (2016) Company Ltd ("J-company"), J Mao, Chen Hong Co Ltd ("C-company") and L Mao faced various charges brought by Auckland Council ("the council"), involving alleged breaches of the RMA and the Building Act 2004. Lau, J-company, J Mao and C-company pleaded not guilty and elected trial by jury. Lau was sole director and shareholder of J-company and represented himself and J-company. J Mao and C-company were similarly related and were represented by J Mao. The council had filed various pre-trial applications, supported by submissions but opposed by the defendants. The defendants had also filed submissions, opposed by the council. On the day that the pre-trial applications had been set down to be heard, Lau failed to appear and, as he had been bailed to appear, the Court issued a warrant for his arrest. He subsequently appeared on the second day of the hearing.

The Court first considered the applications by the defendants J Mao and C-company, which were for orders: severing the charges; staying the proceedings; that a search warrant was "obsolete"; translation of all documents into Mandarin at the council's cost; dismissing all charges; and cancelling bail conditions. The Court declined all such applications, finding that to order severance of the charges would result in 60 separate jury trials, which would not be in accordance with s 138(4) of the Criminal Procedure Act 2011 or the principles derived from case authority. The Court found that the submissions in support of a stay and dismissal of charges were chaotic and unsubstantiated. Regarding the requested translation of documents, the Court stated that, while the defendants were entitled to a fair trial, there was no legal obligation on the prosecutor to translate documents into foreign languages. The Court had supplied an interpreter and an amicus. Further, the charges faced carried terms of imprisonment and there would be an incentive for J Mao not to return to New Zealand were the bail conditions, which included surrender of her passport, cancelled. Turning to consider the applications made by Lau, which included applications for severance of each of the 47 charges faced by Lau and J-company, the Court again declined to make them.

The council's applications were: to withdraw a charge relating to contravention of a "notice to fix" because such notice could not be located; to amend a number of charges to correct minor errors; and for admission of documentary evidence without a witness, under s 130 of the Evidence Act 2006. The Court granted all the council's applications. J Mao and Lau were remanded on continued bail until 16 March 2018.

Decision date 6 February 2018 Your Environment 7th February 2018

(Previous cases involving Mr Lau have been reported in Newslink December 2016, February and December 2017 and February and March 2018 editions. See also news item below - RHL)

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Doctors Flat Vineyard Ltd v Central Otago District Council - [2017] NZEnvC 210

Keyword: costs

Doctors Flat Vineyard Ltd and Rubicon Hall Road Ltd ("the appellants") applied for costs against Central Otago District Council ("the council") following the Court's decision of 2 November 2017 to reverse the council's decision and to grant subdivision and land use consent to the appellants. The appellants incurred costs of $80,924 and sought an award "at the high end of the 25-33 per cent threshold" and submitted that the council advanced arguments without substance, failed to explore settlement and took an unmeritorious, and unsuccessful, approach. The council opposed costs.

The Court considered the principles relevant to its discretion to award costs under s 285 of the RMA, noting that costs were not normally awarded against a consent authority unless the Court was satisfied that the council had passed the "threshold of blameworthiness". In the present case, the Court stated that the appellants were not entirely successful and there was some success for the council, in addition to the improvement of conditions. The council had conducted its case responsibly, supported by expert evidence, and had not been shown to have breached a duty. The application was refused. Costs were to lie where they fell.

Decision date 2 February 2018 Your Environment 5 February 2018

(Refer to a previous report in Newslink February 2018.)

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Barrett v Thames-Coromandel District Council - [2017] NZEnvC 212

Keywords: district plan; rules; airfield

This was the final decision of the Court and concerned to the provisions of the Airfield Height and Noise Overlay to the Thames-Coromandel District Plan which related to the Airfield at Pauanui. The Court considered the submission of Thames-Coromandel District Council ("the council") and the appellant T Barrett relating to the rules might be appropriate. The Court concluded that the council's provisions, as displayed in annexures B and C to the decision, were appropriate in the circumstances, met the purposes of the appeal and provided clarity and certainty so as to be enforceable by the council. There was no order for costs.

Decision date 5 February 2018 Your Environment 6 February 2018

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Wellington City Council v Aitchison - [2018] NZHC 21

Keywords: High Court; costs; public interest

S and P Aitchison ("A") applied to the High Court for costs against Wellington City Council ("the council"), following the council's unsuccessful appeal against the Environment Court's ("the EC") decision of 17 September 2015 ("the declaratory decision") by which the EC found that the structure constructed by Walmsley Enterprises Ltd ("W") on the common boundary between A's property and that of W was not a permitted activity under the district plan. A now sought costs on a 3C basis or alternatively on a 2B basis with a 50 per cent uplift, in respect of four steps in the appeal: commencement of response; preparation of written submissions; appearance of principal counsel; and attendance at hearing of second counsel. The council opposed costs or alternatively submitted that costs should be awarded on a reduced 2B basis. Relying on *Hotchin v KA No 4 Trustee* Ltd [2014] NZHC 978 and r 14.7(e) of the High Court Rules 2016 ("the rule"), the council submitted that it was acting in the public interest when it appealed the declaratory decision. The council also submitted that it assisted A in the enforcement proceedings, offered to pay for an amicus curiae, contributed to the case on appeal and offered to pay A's costs relating to the declaratory decision on a 2B basis.

After reviewing the history of the litigation, the Court considered the issue of the public interest as a defence to a claim in costs, observing that whether or not the public interest exception applied fell to be determined by consideration of the issue raised in the proceeding. A had sought to establish that the council erred in its interpretation of the plan. The Court accepted that a public interest was served when the meaning of legislation was authoritatively declared. However, in the present case it had not been the council which took steps, in the public interest or otherwise, to obtain such judicial interpretation. A was driven to initiate proceedings having suffered severe adverse effects from the overbearing structure. Further, W withdrew from the appeal against the declaratory decision and the council chose to step in as appellant.

The Court was of the view that the council's assertions of public interest motivation did not justify a departure from the principle that the party who failed should pay costs to the party who

succeeded. This was because: the Court distinguished *Hotchin*; although the council had contributed to the case on appeal, A did not now seek costs respecting case management or preparation; regarding the offer to pay for amicus, A's election to instruct their own counsel was entirely reasonable in the context of the litigation; and the council's offer to pay A's costs on a 2B basis did not negate A's entitlement to make the present costs claim. The Court now stated that even if the litigation came within the rule, it would not exercise its discretion to refuse to make an order for costs. Further, the public interest exception was rarely applied to appeals. The Court concluded that A was entitled to an award of costs.

The Court then considered on what basis costs should be awarded. In the present case the Court had no doubt that the proceeding was appropriately classified as category 3 because of its complexity and importance. The submissions were extensive but the material was relevant and helpful. The Court allowed for second counsel for half a day. Citing Court of Appeal authority, the Court now stated that GST was not to be added to an order for scale costs. Accordingly, costs were awarded to A on a 3C basis.

Decision date 12 February 2018 Your Environment 13 February 2018.

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Aitchison v Walmsley - [2018] NZEnvC 4

Keywords: evidence new; procedural

This decision concerned an application by H and D Walmsley and Walmsley Enterprises Ltd ("W") for "recall" of the decision Judge Dwyer issued 22 January 2016 ("the 2016 decision"). The Court stated that the application appeared to relate to the suggestion that, in the 2016 decision, the Court had not considered the decision of Judge Thompson of 2015. The Court further noted that the 2016 decision was on an application for enforcement order made by P and S Aitchison ("A") requiring W to remove a play structure constructed front of A's property in Wellington. In the 2016 decision the Court found that the adverse effects of the structure were offensive or objectionable to such an extent as to have an adverse effect on the environment, and made the order requiring the structure's removal. W now sought to have that decision "recalled".

The Court considered the provisions of s 294 of the RMA relating to the review of a decision by the Environment Court where new and important evidence became available or there was a change in circumstances which might have affected the decision in question. The Court stated that W's application did not establish either of the grounds on which the Court might exercise its power under the section to order a rehearing. Further, the Court recorded that at the 2016 decision hearing W was represented by experienced counsel. Accordingly, the Court found that W had failed to establish grounds for a rehearing under s 294 of the RMA. Further, the Court stated that, since the issue of the 2016 decision, the High Court had confirmed it, which made W's position untenable. The application was declined.

Decision date 14 February 2018 Your Environment 15 February 2018

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Aitchison v Walmsley - [2018] NZEnvC 7

Keywords: procedural; jurisdiction

This was an application by H and D Walmsley and Walmsley Enterprises Ltd ("Walmsleys") for the "recall" of a decision issued by Judge Dwyer on 22 January 2016 ("the 2016 decision"). The present application followed the previous decision of 24 January 2018 by which the Court determined that Walmsleys' application for recall was properly to be regarded as an application for rehearing of the 2016 decision and declined to grant it. Walmsleys now filed a fresh application advising that they did not seek a rehearing but a recall of the 2016 decision, on the basis that counsel had failed to direct the Court to a "relevant authoritative decision". The Court now stated that the relevant authoritative decision in question was the Environment Court's decision of 2015 ("the 2015 decision") which determined that the structure constructed by Walmsleys on the boundary between their property and that of the Aitchisons was not a permitted activity under the district plan.

The Court, after finding that the present application did not come within the provisions of s 295 of the RMA, nor within r 11.9 of the District Court Rules 2014, stated that the basis on which Walmsleys sought to recall the decision was the inherent jurisdiction described by Wild CJ in *Horowhenua County v Nash (No 2)* [1968] NZLR 632. The Court in that decision observed that there were three categories of cases in which a judgment not perfected might be recalled:

where since the hearing there had been an amendment to a relevant statute or regulation or a new decision of relevance and high authority; where counsel had failed to direct the Court's attention to a legislative provision or authoritative decision of plain relevance; and where for some very special reason justice required that the judgment be recalled. The Court now observed that the exceptions applied where a judgment had not been "perfected". In the present case, the Court considered that the 2016 decision had been perfected, in that the enforcement order requiring removal of the structure had been removed. Further, there had been no new decision or statutory amendment. The Court did not consider that there had been a failure by counsel to direct the Court to a decision of plain relevance, namely the 2015 decision. Finally, the Court could not identify any "very special reason" why justice required the 2016 decision to be recalled. The Court observed that the principle that there should be an end to litigation was well recognised and stated that Walmsleys' position was untenable. The application was declined.

Decision date 21 February 2018 Your Environment 22 February 2018

(For the previous reports see Newslink editions December 2015 and April and May 2016, August 2017 and February 2018 - 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.

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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 April 2018

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LINZ: New Zealand Geographic Board launches new Gazetteer. The New Zealand Geographic Board has made significant enhancements to the presentation, search ability and coverage of the New Zealand Gazetteer – the official record of place names in New Zealand. Please follow the link for the full statement. Media Release

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Farm house owners urged to comply with new insulation laws. *Stuff* reports farmers with homes on their farms used as staff accommodation have been warned to make sure they comply with new standards for insulation by July 2019. Morrinsville lawyer Jacqui Owen noted this dispels the myth among farmers that they are excluded from the Residential Tenancies Act. Read the full story here.

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Ruahehu iwi guardians of the environment. *Radio New Zealand* reports that three Ruapehu iwi, Uenuku, Tamakana and Tamahaki, have reassumed their role as guardians of the environment with the launch of the Uenuku Charitable Trust. Read the full story here.

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Housing Minister says prefabricated homes needed for Kiwibuild. *Stuff* reports that Housing Minister Phil Twyford told PrefabNZ's conference in Auckland that prefabricated housing provides an opportunity to build at

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scale, and that these would be need to achieve KiwiBuild's home building targets. Read the full story here.

Otago marine reserves plans falter. *Radio New Zealand* reports that fishing industry representatives and environmentalists are disappointed that the South-East Marine Protection Forum, which has been trying for four years to identify marine reserve areas to be protected on the Southland coast, has failed to achieve consensus as to a proposal to protect all marine

habitats. There are at present no marine protected areas on the south-east coast of the South Island. Read the full story here.

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Council LIM report delays causing stress in Far North . *Stuff* reports Far North District Council is trying to clear the backlog of property files it is in the process of digitising, delaying the delivery of Lim reports by up to a month on top of the statutory 10 days, and putting pressure on vendors and purchasers. Lim reports are held by the local authority and contain information about a property including potential erosion, contamination, flooding, drainage and zoning. Delays are expected until the end of April. Both purchasers and vendors are stressed, as a purchaser will not go unconditional until they get a Lim, and the vendor cannot confirm on the property they are wanting to move to. - Read the full story here.

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Sylvia Park expansion will bring value to $1.12 billion. *The New Zealand Herald* reports that Kiwi Property's chief executive Chris Gudgeon says the $223 million expansion of Auckland's Sylvia Park, which has just been approved, will when completed bring the value of the retail mall to $1.12 billion. The expansion includes 60 new shops, a new Farmers store, a cafe and more car parking. Read the full story here.

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Hurunui DC agrees to buy shares in controversial water scheme. *The Press* reports Hurunui District Council is planning to invest nearly $500,000 in an irrigation scheme, but several councillors have expressed concerns it may not be a good use of ratepayer money. The $200 million dam project will cover about 21,000 hectares within the Hurunui and Waipara catchments north of Christchurch. Read the full story here.

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New $30m block for Auckland's King's School. *The New Zealand Herald* reports that construction is completed of a new $30m, four-level block at Auckland's independent King's School. The new 5,000 square metre building has 19 classrooms, music studios and flexible discussion areas. Read the full story here.

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Possible extension for fixing unreinforced masonry. *Stuff* reports that Cabinet is expected to decide to whether to give some owners of buildings who are trying to secure unreinforced masonry up to another six months to undertake the necessary work. Read the full story here.

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Groundwater at Devonport Naval Base has firefighting foam contamination. *Radio New Zealand* reports that test results show groundwater at Devonport Naval Base has 50 to 100 times more firefighting foam contamination than the recommended maximum. Auckland Council has asked to be kept informed about results from the next round of testing. Read the full story here.

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Christchurch's historic Old Stone House reopens. *The Press* reports that Christchurch's Old Stone House has reopened after a $2 million repair. The heritage-listed building was strengthened to 67 per cent of the new building standard during a 15-month restoration. Read the full story here.

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$80 million chicken farm proposed. *The New Zealand Herald* reports that public submissions close on March 7 regarding Tegel's proposal to build a $80 million farm which will house 1.3 million chickens, near Dargaville in Northland. Read the full story here.

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Residential subdivision outside Alexandra declined. The *Otago Daily Times* reports that a subdivision proposal by Molyneux Lifestyle Village Ltd for a development at the site of the William Hill Winery has been declined by Central Otago District Council on the grounds that it
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would not maintain the rural values in the district plan. Read the full story here.

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Foreign investment ban criticised. *The New Zealand Herald* reports that the Auckland District Law Society (ADLS) and the Real Estate Institute of New Zealand (REINZ) have added their voices to others such as the Property Council in criticising the Government's proposed new legislation banning foreign investors from buying New Zealand residential property. They believe the changes will create a shortage of new homes. The criticism by ADLS and REINZ comes in select committee submissions on the Overseas Investment Amendment Bill. Read the full story here.

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Fulton Hogan agrees to publicly notify quarry application. *The Press* reports that residents opposed to a new Fulton Hogan aggregate quarry operation near Templeton, outside Christchurch, are pleased that the developer will ask for any resource consent application to be publicly notified. Read the full story here.

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Residential subdivision outside Alexandra declined. The *Otago Daily Times* reports that a subdivision proposal by Molyneux Lifestyle Village Ltd for a development at the site of the William Hill Winery has been declined by Central Otago District Council on the grounds that it would not maintain the rural values in the district plan. Read the full story here.

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Major sewage leak closes Auckland's Milford beach. *Radio New Zealand* reports that Watercare says that a break in a main sewer line led to the discharge of sewage into gardens and homes at Milford, Auckland. The contaminant then flowed into Wairau Creek and then to Milford Beach, which has been closed. Read the full story here.

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Developer jailed for damaging protected trees. *The New Zealand Herald* reports that Auckland developer Augustine Lau has been jailed for two and a half months after pleading guilty to a charge of using land in contravention of regional and district rules under the Resource Management Act. He damaged six pohutukawa trees and one totara tree on a Waiwera property to improve his view. Councillor Linda Cooper said people could do what they liked with trees on their private land provided they were not on the protected list. Read the full story here.

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Survey shows most people think NZ businesses should pay for pollution. *Radio New Zealand* reports that a Colmar-Brunton survey, commissioned by Fish & Game, has found that nearly three-quarters of New Zealanders think businesses who cause pollution, including dairy farms, should pay to mitigate the adverse impacts of their operations. Read the full story here.

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Concerns about effects of high rise apartment building in Takapuna. *The New Zealand Herald* reports that the 21-unit Alba apartment development which is under construction in Auburn St, Takapuna is worrying nearby residents who fear that their homes will lose privacy and suffer noise, traffic and other effects. Auckland Council, which did not notify the development, says that the area has been "up-zoned" for increased density and higher buildings in the Unitary Plan. Read the full story here.

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