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Legal Case-notes April 2019

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

- The final decision on a successful appeal against refusal of consent by Auckland Council to demolish a heritage building that was subject to a dangerous building notice;
- What can an advice note do? Is it a condition? Can it be unlawful? Was it a statement of new policy or merely a guide to Council officers? This decision on appeal seeking interpretation of am advice note in a regional consent at north Canterbury may provide some clarification;
- This item reports on an unsuccessful appeal against grant of consent to development at Frank Kitts Park on Wellington's waterfront;
- An interim decision following a direct referral to the Environment Court on an application to upgrade the Skyline gondola near the business centre of Queenstown;
- An unsuccessful appeal by a community group against grant of consent for construction of a dwelling and shed in an area identified as Outstanding Natural Landscape in the Upper Waitaki Basin;
- A partly successful appeal against the decision of Dunedin City Council to grant consent to subdivision on Otago Peninsula on a non-complying basis;
- Interim and final decisions on an appeal against a decision of commissioners for Queenstown Lakes District Council on a property on SH6 near Lake Hawea township;
- An application for costs on the appeal about status of the consent to a form of subdivision for cell phone aerial sites that avoided the necessity for subdivision consent.

  and a postscript outlining the probable final decision on Mr Mawhinney's court saga.

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CASE NOTES APRIL 2019:

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View West Ltd v Auckland Council _ [2019] NZEnvC 15

Keywords: resource consent; building; conditions

This was the Court's final grant of consent, subject to conditions, for the demolition of St James Hall Building at 31 Esplanade Rd, Mt Eden, Auckland ("the building"). In its interim decision of 14 December 2018, the Court approved demolition of the building and noted some modifications to preserve heritage fabric, as suggested by the applicant, View West Ltd.

The Court stated that the final conditions were now issued as a matter of urgency, given the ongoing concerns about the safety of the building, particularly in light of the recent fire on the site and the subsequent demolition of the building at the directions of officers of Auckland Council. The Court now questioned the authority or power of the council to undertake such

partial demolition and stated it was highly concerned by the council actions in perpetuating safety issues on the site. The Court considered that the demolition of the balance of the building's structure should be undertaken as soon as possible. Subject to two changes the Court approved the conditions of demolition consent and made final orders in accordance with Annexure A attached to the present decision. Directions were given as to applications for costs.

Decision date 27 February 2019 _ Your Environment 28 February 2019

(See previous report in Newslink, March 2019 – RHL.)

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Royal Forest and Bird Protection Society of New Zealand Inc v Canterbury Regional Council _ [2018] NZEnvC 225

Keywords: declaration; regional plan; rule; interpretation; contaminant

This was the Environment Court's final decision on the application by Royal Forest and Bird Protection Soc of New Zealand Inc ("RFB") for a declaration that an advice note issued by Canterbury Regional Council ("the council") was unlawful. The advice note was issued in response to concerns raised by dryland farming operations to the "unintended consequences" of rules relating to changes in land use contained in the Hurunui and Waiau Rivers Regional Plan ("the HWRRP"). In its interim decision of 6 August 2018, the Court found that the advice note was a form of policy as to the council's prosecutorial, or compliance, monitoring and enforcement ("CME") discretion, which pertained to how the council fulfilled its duty under s 84 of the RMA. While it was not mandatory, the Court found that the advice note had significant persuasive force as a policy and that the CME policy in the advice note might be an unlawful fetter on the council's discretion. In addition, the Court observed that regarding Phosphorus ("P"), there was no evidence regarding whether analysis had been carried out as to the effects on per-property releases of P and gave the council the opportunity to provide supplementary evidence. The council now supplied supplementary submissions and evidence regarding P and dryland farming. The council submitted that, based on such evidence of analysis and monitoring undertaken by it with regard to P, the declarations sought should not be made. In reply, RFB submitted that the advice note included extraneous considerations which had the effect of fettering decision making power of the council and so, following *Cancer Society of New Zealand Inc v Ministry of Health* [2013] NZHC 2538, [2013] NZAR 1461, it was invalid.

The Court considered the nature of the advice note, finding that it was neither part of the HWRRP not a legal addition to that plan; it had no legal effect on how the HWRRP was to be interpreted. However, the note did have a bearing on how the council exercised its duty under s 84 of the RMA as to administration and enforcement of the plan. The advice note acted as a CME policy, and the risk analysis undertaken by the council was not inherently an extraneous consideration. The Court accepted that the council's limited resources meant it had to prioritise CME and that risk analysis could have a legitimate place. It did not put the rules of relevant plans to one side; rather, those rules continued to have full force. Further, the Court rejected RFB's submissions that to issue a CME policy in the nature of the advice note was inherently contrary to the purpose and scheme of the RMA, and undermined public participation in plan formulation. The note did, however, have significant persuasive force as a policy and it would be expected to influence council enforcement officers in their monitoring and enforcement work. It was directed at dryland farmers. The Court stated that, on the basis of the council's supplementary submissions and evidence, it was satisfied that the council did give due consideration to P loading risks in formulating the advice note. Accordingly, as was the case for Nitrogen, the Court was now satisfied that the advice note was properly underpinned by analysis of any risks of P loading. On the basis of such findings, the Court was satisfied that it would not be appropriate to make a declaration in the terms sought by RFB, ie, to declare the entire advice note unlawful. This was because the Court was now satisfied that the note expressed a council CME policy which was soundly informed by scientific analysis. However, the fact remained that specified assertions in the advice note, that normal dryland farming was not considered a "change in land use" as defined in the HWRRP, and that undertaking dryland farming would not constitute such a change in land use, were at odds with the HWRRP. The Court accepted RFB's submissions as to the findings in *Cancer Society* that such inaccurate representations of the legal effect of the HWRRP could be an unlawful fetter on the council's discretion. Accordingly, the Court now declared that the specified statements in the advice note were unlawful. Costs were reserved.

Decision date 19 December 2018 _ Your Environment 07 January 2019
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Waterfront Watch Inc v Wellington City Council _ [2018] NZHC 3453

Keywords: High Court; resource consent; district plan; rule; view; interpretation; effect

Waterfront Watch Inc ("the appellant") appealed against the decision of the Environment Court ("EC") of 6 April 2018 ("the EC decision") which confirmed Wellington City Council's ("the council") grant of resource consent for the redevelopment of Frank Kitts Park ("the Park") on the city's waterfront. The redevelopment would include a Chinese Garden, the creation of two lawns and the construction of a pavilion and pergola. The present appeal concerned the EC's determination regarding the effects of Viewshaft 11 in the Wellington City District Plan ("the plan"). The appellant alleged that the EC: incorrectly interpreted and applied the requirement in Policy 12.2.6.7 of the plan ("the policy") to protect Viewshaft 11; erred in finding that the effects on the viewshaft would be at worst minor; wrongly failed to consider the loss of visual connection to the City Link walkway; wrongly discounted evidence on the lack of positive effects as being a matter of taste and not relevant to decision-making under the RMA; and took the wrong approach to evaluating effects on Viewshaft 11.

After considering the application, the EC decision and the relevant provisions of the RMA and the plan, the Court noted that the appellant submitted that the EC had not considered plan policy requirements to protect and where possible enhance identified public views of the harbour. The Court concluded that the viewshaft protected the view *of* the Park, not what was *in* the Park. Provided the proposal did not intrude into Viewshaft 11, and the EC found that it did not, the policy had no further application. The Court accepted that the EC was not required to assess what values should be attached to composite parts of the Park in Viewshaft 11; it was the view of the Park as a whole within the viewshaft which was the outstanding element because that was the focus of the view. The EC made no error either in considering whether there was intrusion into the viewshaft under the policy or in finding that a change in the focal element of the park, as a matter of plan interpretation, did not amount to an intrusion into the viewshaft. The first ground failed.

Secondly, the appellant argued that the EC incorrectly relied on the absence of a harbour view as a factor that lessened the adverse effect of the proposal on the view. The Court stated that the EC was not constrained to considering simply what was protected by Viewshaft 11. The fact of the lack of a present harbour view, and that it was not included as a focal element of the viewshaft, meant that the EC's factual findings on this issue did not make any material difference to the outcome. There was no error of law regarding the second ground. The third ground also failed. The Court now found that the EC's approach to the evidence and its assessment was open to it and the Court's approach to s 290A of the RMA was not in error. The fourth ground challenged the EC's consideration of issues other than those relating to the viewshaft. The Court found no error had been made; the EC reached a determination on the relevant criteria and carefully assessed the positive and negative effects of the proposal, on the evidence. Finally, the Court found that the fifth ground failed in that the EC made no error in the way it undertook its assessment or consideration of the effects on the viewshaft. The appeal was dismissed. Directions were made regarding applications for costs.

Decision date 25 January 2019 _ Your Environment 28 January 2019.

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Skyline Enterprises Ltd v Queenstown Lakes District Council _ [2018] NZEnvC 242

Keywords: resource consent; conditions; parking

This interim decision concerned an application by Skyline Enterprises Ltd ("Skyline") for land use consent to construct a multi-level carpark ("the proposal") at 53 Brecon St, Queenstown. This was subsequent to *Skyline Enterprises Ltd v Queenstown Lakes District Council* [2017] NZEnvC 124 in relation to Skyline's gondola upgrade proposal, which noted the lack of provision for parking despite the consensus position of traffic experts that the upgrade would put significant further demands on already inadequate parking facilities. As with the gondola upgrade proposal, the Court determined the present application under the direct referral provisions of the RMA. The proposal would make provision for 449 car parking spaces with a minimum of 350 for the exclusive use of Skyline's staff and visitors. The proposal included associated natural hazard protection works, fencing and landscaping, works to infrastructure services and associated tree removal, earthworks and construction activities.

In the course of the hearing Skyline's proposed consent conditions evolved and following

facilitated expert witness conferencing the planning witnesses produced an agreed set of recommended conditions in a joint witness statement. Following further deliberation the Court had issued a Minute noting deficiencies in the drafting of these conditions and directed Queenstown Lakes District Council ("the council") to correct these in consultation with the parties. The council then responded with an improved set of final conditions which the Court now examined.

The Court found that the final conditions appropriately managed: carparking and traffic and transportation effects; operational and construction and vibration effects; urban design outcomes; excavation and construction activities; requirements in relation to outstanding natural landscapes and other landscape and visual amenity matters; and management of natural hazard risks, including rockfall and fire risk.

The Court was satisfied that the final conditions were properly complete and sound in overcoming drafting flaws in the agreed conditions. Subject to the determination of the gondola upgrade proposal, the Court found the proposal satisfied all RMA requirements for consent on the conditions in the Annexure to the decision. A timetable would be set for closing submissions on the proposal. Costs were reserved.

Decision date 31 January 2019 _ Your Environment 1 February 2019

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Ohau Protection Society Inc v Waitaki District Council _ [2018] NZEnvC 243

***Keywords**: resource consent; landscape protection; earthworks; amenity values; precedent; visual impact*

This was an appeal by Ohau Protection Soc Inc ("OPS") against the decision of Waitaki District Council ("the council") to grant consent to S and L Simmons to build a dwelling and implement shed and related earthworks and vegetation clearance on their property at the southern margin of Lake Ohau in the Upper Waitaki basin. The proposal was governed by the Waitaki District Plan ("the plan"), under which the site was zoned Rural Scenic. It was also within an Outstanding Natural Landscape ("ONL") overlay such that the proposal was classed as a discretionary activity, as was the indigenous vegetation clearance.

The Court addressed matters of contention between the parties. As regards visual amenity values and landscape values arising from changes at specified viewpoints, the Court was overwhelmingly satisfied that nothing about the proposal would likely materially depreciate or degrade how people would appreciate the area's amenity values or landscape qualities or values. The Court stated that this was a sufficient basis to determine the appeal and confirm the grant of resource consent for the proposal.

However, mindful that OPS submitted that there would be adverse precedent implications in granting consent, the Court gave reasons on effects on ONL and other landscape values. The Court found the choice of landscape unit by OPS's planning witness was unrealistically selective. Therefore, his associated landscape assessment was not reliable. Rather, it materially overstated the true impacts of the proposal on the ONL and other landscape values. In terms of an assessment of the proposal on landscape values in light of the Regional Policy Statement and plan provisions, the Court did not accept assertions that the proposal would push the landscape beyond any change threshold such as would compromise ONL values. The Court agreed with the council that the proposal did appropriately respect those values and was not inappropriate in terms of compromising those values in the plan. The appeal was dismissed and consent was granted to the proposal on the conditions annexed to the decision. Costs were reserved.

Decision date 31 January 2019 _ Your Environment 4 February 2019

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Granger v Dunedin City Council _ [2018] NZEnvC 250

***Keywords**: resource consent; subdivision; landscape values; district plan; rural residential; effect*

G Granger and others ("the appellants") appealed against the decision of Dunedin City Council ("the council") to grant subdivision and land use consent to Peninsula Holdings Trust ("PHT"). The proposal was to create an eight-lot subdivision with building platforms on four lots, on the Papanui Inlet on Otago Peninsula ("the site"). The lots so created were considerably less than the minimum size for residential sections under the proposed and operative district plans. The

proposal was for a non-complying activity and so was considered under s 104D of the RMA.

The Court stated that the standard of drafting on conditions of consent was such that the Court was unable to determine whether the proposal satisfied s 104D of the RMA. Further, no written amendments to the conditions had been proposed. The Court determined that the conditions were material to the determination of the case and went to the heart of the reasons for the appeal, which were that the decision failed to protect the outstanding natural landscape and natural character of the coastal environment. The Court was unable to gain a proper understanding of the level of effects on the environment of the proposal.

The Court reviewed the proposal, the proposed allotments and uses of land, and considered the relative weight to be given to the operative district plan and the recently-notified proposed district plan. The site was in an outstanding natural landscape ("ONL"), in which human elements had "only modest influence". The appellants emphasised the amenity values presently afforded by the subservience of structures and buildings to the area's natural attributes. After considering the relevant provisions of the Otago Regional Policy Statement, and the district plans, and the possible effects of the proposal on the properties of the appellants, the Court addressed the issue of reverse sensitivity. The building platform for Lot 4 was 150 metres from central work areas of a quarry. The Court rejected PHT's submission that there was no reverse sensitivity effect. The land in at least one of the proposed lots was required for the internalisation of the adverse effects of the quarry in accordance with the conditions of the quarry consent. The potential for reverse sensitivity would be increased if residential activities were established in specified lots. If that occurred, the productivity of the quarry, a rural activity, might not be maintained. The Court concluded that the creation of those lots, together with the proposed building platform and existing dwelling, was contrary to the objectives and policies of the district plans.

Regarding effects on ecological values of the property, which contained significant habitats of indigenous flora and fauna, including a saltmarsh on Lot 3. PHT proposed entering a covenant with the council over part of Lot 3 to protect and enhance areas of indigenous vegetation, to be implemented by a management plan. However, the Court had not received neither a plan of the areas to be covenanted nor a copy of the draft covenant and management plan. Beyond a broad statement of the covenant's purpose, the promises and conditions were not stated, leaving only uncertainty.

The Court considered PHT's submission that there was a level of development which could occur within the environment and that level was a "baseline" above which the proposal should be assessed. The Court found that this approach was novel and unsupported by case authority, including *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZHC 815, (2013) 17 ELRNZ 585. The Court however determined that within the rural environment some level of residential development was acceptable, consistent with the objectives of the district plans.

The Court made the following final decisions: to decline in part the application for subdivision relating to the creation of Lots 3 and 4; to decline to give weight to the baseline environment; and to reject the submission that there was an adverse amenity effect on two specified appellants. The Court made directions for PHT to propose amendments to the specified subdivision conditions by the stated deadline.

Decision date 11 February 2019 Your Environment 12 February 2019

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Cossens v Queenstown-Lakes District Council _ [2018] NZEnvC 205

Keywords: resource consent; subdivision; residential

J Cossens ("C") appealed against the decision of commissioners for Queenstown Lakes District Council ("the council") regarding the subdivision consent granted to C relating to his 20.1-hectare property at 964 Lake Hawea-Albert Town Rd ("the site"). C had sought consent to subdivide the site into four allotments with an average lot size of five hectares. The council approved subdivision of Lots 1 and 2 but declined consent for Lots 3 and 4, instead requiring that those lots be held together. C also appealed the council's decision to decline a building platform on Lot 3.

The Court considered the present proposal, the site and the receiving environment and noted that the site was in the Rural General zone in the operative district plan ("the ODP") and the proposed district plan ("the PDP"), and part of a visual amenity landscape in the ODP and in the rural character landscape in the PDP. The Court found that consent was required for the
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proposal as a discretionary activity. The proposal was assessed by the Court under s 104 of the RMA. The relevant statutory planning and the Proposed Otago Regional Policy Statement ("the PRPS"). The effects of the proposal which were of relevance included those on: landscape quality and character, visual amenity, density of development, indigenous biodiversity and cumulative effects. Positive effects included the increase of supply of sections and the covenant against further subdivision. Overall, the Court found that while the site and its environment had landscape and visual amenity values which were vulnerable to degradation, it had some potential to absorb change. Of the development options presented by C to the Court, Option A was considered to be sufficiently comprehensive and sympathetic to the site. Further, weighting all relevant matters in the ODP, the Court provisionally found that the proposal as shown on the plan for Option A, would achieve the objectives and policies of the ODP. Regarding policy provisions in the PRPS relating to the protection or enhancement of highly valued landscapes, the Court predicted that the proposed subdivision would achieve these. While the Court had regard to the commissioners' decision, it differed in respect of lot 3. The Court stated it would grant consent for a four-lot subdivision with three building platforms, under Option A, provided conditions discussed in the decision were modified. The decision was issued as an interim one and the parties were directed to confer and if possible lodge with the Court agreed conditions.

Decision date 13 November 2018 _ Your Environment 14 November 2018

Cossens v Queenstown Lakes District Council. – [2019] NZEnvC 17

Keywords**: **resource consent; subdivision

This was the final decision of the Court and followed that of 16 October 2018. The Court in the previous decision granted consent for a subdivision with three building platforms. As the Court directed, the parties now filed a joint memorandum with updated conditions of consent. The Court now granted consent subject to the revised conditions, as set out in the appendix to the present decision. Costs were reserved.

Decision date 28 February 2019 _ Your Environment 1 March 2019.

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Re Spark New Zealand Trading Ltd _ [2018] NZEnvC 234

Keywords: costs; declaration

This was an application to the Environment Court for costs by Clearspan Property Assets Ltd ("Clearspan"), following declaration proceedings concerning whether certain property arrangements constituted a subdivision within the meaning of s 218 of the RMA. The Environment Court decided to make a declaration, reserving costs pending appeals. The Environment Court declaration was overturned by the High Court, whose decision was upheld on appeal to the Court of Appeal.

The Court considered the principles and relevant case authority applying to its discretion to award costs under s 285 of the RMA. The Court noted that Clearspan argued for costs on the basis that the proceedings were a commercial move by Spark New Zealand Trading Ltd and Vodafone New Zealand Ltd to restrict Clearspan's activities. However, the Court stated that the decisions dealt instead with the broader issue of whether s 218 of the Act was intended to encapsulate Clearspan's arrangement. The issue was the legal arrangement used, not the purpose for which it was used. The Court accepted that the matter was of some complexity and turned on the issue of a purposive approach to the RMA compared to the actual wording used. The Court concluded that the broader implications of the issues in the case meant that there was no principled basis on which costs should be awarded.

Decision date 23 January 2019 _ Your Environment 24 January 2019

(See previous references in Newslink case-notes for August 2016, May 2017 and September 2018. RHL)

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Postscript - Auckland Council v P W Mawhinney – [2019] NZHC 2999

The 25 year-long conflict between Mr P W Mawhinney and Waitakere City Council and Auckland Council is over. During this period, Mr Mawhinney had brought proceedings against the relevant local authorities and had repeatedly attempted to achieve land use and subdivision consents contrary to district plan objectives, policies and provisions. Environment Court decisions followed. He then attempted on numerous occasions to re-litigate the resulting Court decisions. Mr Mawhinney is a bankrupt claiming an interest in multiple properties with a combined area of 123Ha.

The Auckland Council applied to the High Court for an extended order under Section 166 of the Serious Courts Act 2016 to require him to cease and desist from making vexatious applications to the Courts.

The High Court has now ordered that Mr Mawhinney is prevented from commencing and continuing any civil proceedings against Auckland Council in relation to the identified parcels of land for 5 years.

Decision date 28 February 2019 – Summary by R H Low

(*Previous cases involving Mr Mawhinney have been noted in Newslink case notes dated July 2005, June, November & December 2006, April 2008, March, June 2009, July 2011, September 2012, December 2017, June 2018 and March 2019.)*

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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 2019

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$1.2 billion sewer tunnel for Auckland.

The New Zealand Herald reports that Watercare plans to build a 13 km wastewater tunnel, termed the Central Interceptor, from Western Springs to the Mangere wastewater treatment plant, at a cost of $1.2 billion. Read the full story here.

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$10m needed to control wilding conifers pest in Northern Southland.

The *Otago Daily Times* reports that Mid Dome Wilding Trees Charitable Trust chairwoman Ali Ballantine Timms has asked the Government to increase funding for wilding conifer control. She says that a minimum of $10 million is required to address the problem on Northern Southland's Mid Dome and reduce the numbers of the pest trees. Read the full story here.

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SHA legislation will not be extended.

The *Otago Daily Times* reports that Housing and Urban Development Minister Phil Twyford says that the special housing area law will not be extended. The Minister said that the legislation had failed to make houses more affordable; in fact, in certain instances houses were more expensive inside SHAs than outside them. Read the full story here.

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Costs outweigh benefits for Special Housing Area extension.

Housing and Urban Development Minister Phil Twyford has announced that the Government will not be extending the former government's Housing Accords and Special Housing Areas legislation.

The HASHAA legislation was established in 2013 as an interim measure until wider reforms to improve housing affordability took effect. It is set to expire on 16 September.
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Phil Twyford said that although the law had increased housing supply in some areas, it had not led to more affordable housing.

"Our Government recently considered extending this legislation, but on balance, the benefits did not outweigh the costs.

"Therefore no new Special Housing Areas will be able to be established after 16 September this year. Those being set up before this time will have two years to have their consents fast-tracked. There will be no change to the consenting process for those Special Housing Areas which are already established.

"Our Government has a comprehensive plan to make housing more affordable by increasing land supply and fast-track residential construction.

"Councils in high growth areas also had access the $1 billion Housing Innovation Fund that provides 10 year interest free loans to build infrastructure needed for new housing.

"The Government is also setting up a housing and urban development authority to help fast-track urban development projects. It will have powers for land acquisition, planning and consenting," Phil Twyford said. - Please click on the link for the full statement. media release R

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New, improved public access from Murchison to the Buller-Ahuriri River.

Stuff reports a new track is opening between Murchison and the Buller-Ahuriri River, following an unformed legal road (ULR) from the end of Grey Street. Access to the road was blocked by a family grazing stock on the land. About 56,000 kilometres of ULRs like this are recorded on the official New Zealand mapping system managed by Land Information New Zealand, and it is illegal for neighbouring landholders to keep the public out. - Read the full story here.

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Survey of family's land knocks 50sqm off site.

Stuff reports a family in Wakefield are disillusioned after a survey of the 600sqm section they are contracted to purchase has shrunk to 553sqm following a land survey. The land contract states the site could be subject to a five per cent size variation. The ground lost constitutes more than that, meaning the developer has breached the contract. But the couple are still locked into the build contract, so they're left with a tough decision: walk away and lose the $25,000 they have invested in the build, or stay and build a house two-thirds of the original design. The land contract does not contain a clause for providing for compensation for any reduction in size. Read the full story here.

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Canterbury Earthquake (Christchurch Replacement District Plan) Order Revocation Order 2019 (LI 2019/16).

Under section 148 of the *Greater Christchurch Regeneration Act 2016*, the Minister for Greater Christchurch Regeneration has the power to revoke Orders in Council continued by section 147 of that Act. This order, which comes into force on 18/03/2019, revokes the *Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014*. That order modified the application of the *Resource Management Act 1991* (the RMA) to provide a new process for the review of the existing Christchurch district plans. It also required the Christchurch City Council to prepare a replacement district plan for the Christchurch district.

This order returns the management of the Christchurch District Plan to the local leadership of the Christchurch City Council and restores the application of the RMA to the processes for the preparation, change, and review of the district plan.

Before recommending the making of this order, the Minister had regard to the views of the strategic partners (Christchurch City Council, Selwyn District Council, Waimakariri District Council, Environment Canterbury, and Te Rūnanga o Ngāi Tahu) and also consulted with Regenerate Christchurch and Ōtākaro Limited. This order is revoked at the close of 15/04/2019.

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Farmers concerned over restrictions on developing leasehold Crown land.

Radio New Zealand reports Federate Farmers are worried its members with long-term lease on Crown land may be prevented from developing their properties, following Government's

proposed changes to the rules for those farming high-country land, which requires greater consideration of the environment in applications to farm the land more intensively. Read the full story here.

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Council places flood notice on property title after granting consent to build apartments.

Radio New Zealand reports that Thames-Coromandel District Council has been criticised for its decision to place a flood hazard notice on the title of Richmond Villas retirement apartments about 18 months after granting consent for the 73-unit block. Concerns have been raised about the possible liability of the council if it knew of flooding risks when it granted the consent to build. Read the full story here.

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Tribunal says council claiming "frivolous" damages from tenants.

Stuff reports Wellington City Council has been chastised by the Tenancy Tribunal for claiming thousands of dollars from its tenants on "frivolous" grounds. The council has taken its tenants to the tribunal on at least a dozen occasions since 2016, seeking reimbursement for accidental damages despite the council being insured. Read the full story here.

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High Court challenge to dumping Auckland waste off Great Barrier Island waters.

Radio New Zealand reports that two groups of people living on Great Barrier Island will appeal to the High Court against the decision of the Environmental Protection Authority to allow Coastal Resources Ltd to deposit 250,000 cubic metres annually of waste dredged from developments in Auckland and elsewhere in the Island's coastal waters. Read the full story here.

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State-owned land considered for build-to-rent housing.

Radio New Zealand reports Housing Minister Phil Twyford has sought advice on building rentals on state-owned land, including whether the government should build public transport stations on it to spur build-to-rent developments. Property experts say the idea was opposite to the government's KiwiBuild policy, which built homes to sell. Read the full story here.

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18-lot subdivision planned for Central Otago.

The *Otago Daily Times* reports that the majority of sections in a new 18-lot residential subdivision proposed in Central Otago near the shore of Lake Dunstan would be smaller than the 1,000 sqm required in the district plan. Read the full story here.

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Auckland Council's plans to charge anchor fee for super-yachts.

The New Zealand Herald reports that a difference of opinion has arisen as to whether Auckland Council should charge anchor fees for cruise ships and very large yachts around the period of the America's cup competition in the city. Read the full story here.

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NZTA launches independent investigation into Skypath.

Radio New Zealand reports that NZTA board chair Michael Stiassny has announced an independent investigation into the proposed SkyPath walk and cycleway across the Auckland Harbour Bridge. Read the full story here.

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Tenants succeed in halting landlords' works.

Stuff reports two Waihi tenants have successfully sought an order from the Tenancy Tribunal to stop their landlords from building a garage on the property. The Tribunal ruled in favour of the tenants on grounds they had a right to quiet enjoyment under the Residential Tenancies Act. - Read the full story here.

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NZLS: Property matters biggest source of complaints against lawyers.

Matters related to property law were the biggest source of complaints lodged with the Law Society's Lawyers Complaints Service in the year to 30 June 2018. The latest Annual Report of the New Zealand Law Society has been tabled in Parliament. It shows that property matters made up 18.1% of complaints, followed by trusts and estates (17.9%), family law (17.5%), employment law (9.2%) and civil litigation (9.0%). - Please follow the link for the full statement. Media release

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$100m rest home to be built in Mosgiel.

The *Otago Daily Times* reports that Dunedin City council has granted resource consent for the construction of a 380-unit rest home, to hold 450 residents, in Mosgiel, with the $100 million development to be staged over 10 years. Read the full story here.

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Homes for whānau built on Māori land.

Radio New Zealand reports that the Māori Housing Network, with the papakainga at Hurunui o Rangi Marae has built six new homes for whānau, enabling Māori to live on the marae. The papakainga initiative was launched in 2015 by Te Puni Kōkiri, to support Māori to plan, build and fund affordable rental homes. Read the full story here.

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Waikato dairy farmer fined $131,840.

Newshub reports that Cambridge farming operation Pollock Farms (2011) Ltd and one of its directors have been fined a record $131,840 after being convicted in the District Court on charges relating to the unlawful discharge of dairy effluent. Read the full story here.

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Auckland's Alexandra Park project developer asks for more time on overdue construction.

The New Zealand Herald reports that the Auckland Trotting Club is asking buyers of the Alexandra Park apartments, whose construction completion has been delayed by three years already, to wait another year instead of claiming their money back. Read the full story here.

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Skypath dispute prompts Government to step in.

Radio New Zealand reports the Government has stepped in to try to resolve a dispute between Skypath Trust and the Transport Agency over the future of the pedestrian and cycle access way across Auckland's Harbour Bridge. Associate Transport Minister Julie Anne Genter said the pathway was a very important project for Auckland. Read the full story here.

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Conservation groups use technology to support 1080 drop.

Radio New Zealand reports that the Department of Conservation, together with eight Taranaki iwi and the Next Foundation, plans to trial the use of drones, battery-powered self-priming traps and infrared cameras to back up the 1080 drop proposed in Mount Egmont National Park. The technological devices will help suppress pest numbers after the poison is dropped. Read the full story here.

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QLDC wants Laurel Hills housing development to go ahead.

The *Otago Daily Times* reports that Queenstown Lakes District Council will recommend that the Special Housing Area proposed for Ladies Mile in Laurel Hills should be approved and the construction of 156 homes should go ahead, despite expressed concerns of local residents about increased traffic congestion and limited roading infrastructure. Read the full story here.

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Marlborough Airport expansion planned from iwi land lease agreement.

Stuff reports Marlborough Airport is drawing up expansion plans to reinvigorate the entrance and add more car parks, after agreeing to lease land bought by iwi in a historic treaty settlement deal made in 2014. Under the settlement, three Kurahaupō iwi were able to buy surplus Defence Force land at Base Woodbourne, west of Blenheim, as commercial redress for historical breaches of the Treaty of Waitangi. - Read the full story here.

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Hotel complex planned for Queenstown at Gorge Road.

The *Otago Daily Times* reports that developer Tony Gapes has applied for consents to construct two seven-storey hotel and apartment buildings on Gorge Rd, Queenstown, which is currently in a commercial/light industrial area. Read the full story here.

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Arrow International's voluntary administration affects construction projects.

The Otago Daily Times reports that developers are trying to keep projects on track after construction company, Arrow International went into voluntary administration. Subcontractors have left construction sites in Auckland, Hawke's Bay and Wellington. Read the full story here.

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Earthquake-prone building owners could face prosecution by Hutt City Council.

The New Zealand Herald reports that Hutt City Council could take legal action against the owners of 10 earthquake-prone buildings in Lower Hutt for missing the deadline to bring the buildings up to standard. Read the full story here.

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AirBnB host fined over 'reckless' use of shipping containers.

The New Zealand Herald reports an Arthurs Point AirBnB host has been fined $12,000 by the Environment Court in the first prosecution of its kind in the Queenstown Lakes District for using two illegal shipping containers for visitor accommodation. - Read the full story here.

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Solomon Islands environmental oil spill disaster.

Radio New Zealand reports that an uncontained oil spill is threatening the marine sanctuary on the Solomons island of Rennell, a UNESCO world heritage area. The Hong Kong registered *MV Solomon Trader* was damaged and stranded on a reef by cyclone Oma and is estimated to have leaked 60 tonnes of oil into the lagoon, poisoning fish and polluting the water. Read the full story here.

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Taranaki RC supports $55m Yarrow Stadium refit.

Taranaki Daily News reports that Taranaki Regional Council has approved the expenditure of $55 million to repair the stands and upgrade facilities at New Plymouth's Yarrow Stadium. Read the full story here.

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NZLS: Breach of asbestos ID regs results in damages against landlord.

The Tenancy Tribunal at Tauranga has awarded exemplary damages of $2,000 to two tenants whose landlord hired builders to carry out renovations to an adjoining garage which exposed white asbestos.

The full scope of the renovations was not made clear to the tenants at the outset and came along with other problems in their relationship with the landlord.

The tenants had a large number of personal belongings stored in the garage. The renovations were carried out with their possessions covered by thin plastic. The builders used the toilet in the tenants' house during the renovations, which took several weeks.

The father of one of the tenants, a retired builder, commented to the landlord and one of the builders that a piece of removed ceiling panel could be asbestos. His concerns were dismissed, with one of the builders claiming that he had "trained for asbestos" and the panel was definitely
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not asbestos.

The landlord gave notice of termination after just five months, saying he needed the house for family purposes. Not long after notice was given the tenants themselves arranged for a sample of the garage to be tested for asbestos. The test was positive and further positive swabs followed.

An asbestos removal expert hired by the landlord stated that no-one should be living at the property, and recommended disposal of the tenants' vacuum cleaner and all soft items such as clothing, fabric and cardboard. WorkSafe subsequently issued a prohibition notice and improvement notice confirming that health and safety regulations had likely been breached. Please follow the link for the full statement. media release

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NZDF estate outdated, failing and unsafe – report.

Radio New Zealand reports that a briefing document to Defence Minister says that the Defence Force buildings, roads and water infrastructure are outdated, potentially earthquake prone and unsafe and in need of urgent investment and upgrade costing billions of dollars. Over 70 per cent of the estate needs to be replaced in the next 30 years. Read the full story here.

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Car parking issues with Wanaka Lakefront Development Plan.

The *Otago Daily Times* reports that Wanaka residents have told the Community Board that they oppose the removal of car parking space from the waterfront as proposed by the Lakefront Development Plan. They are concerned that the proposal to "pedestrianise" the waterfront with cycle lanes and walkways would exclude the aged population of Wanaka from access to the shops and the lake front. Read the full story here.

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True cost of Wellington Town Hall refit not disclosed - could be $130m.

The Dominion Post reports that, although Wellington City Council will vote on a payment of $112 million for the Town Hall's refurbishment, local property developers say that it is generally known that a "contingency" fund of at least $20 million will be added to bring the true cost to ratepayers closer to $130 million. Read the full story here.

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SkyPath in doubt due to dispute about NZTA's payment for intellectual property in design.

Radio New Zealand reports that SkyPath Trust, which designed the proposed pathway alongside Auckland's Harbour Bridge, is struggling to obtain payment from NZTA for the intellectual property rights to use the design. Bevan Woodward of the SkyPath Trust says construction of the project might not go ahead if the issue is not resolved. Read the full story here.

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Standards to make homes warm and dry released.

The new healthy homes standards to make rental properties warmer and drier have been announced by Housing and Urban Development Minister Phil Twyford. The standards set minimum requirements for heating, insulation, ventilation, moisture and drainage, and draught stopping in residential rental properties. They reflect feedback from a wide range of public health experts, stakeholders including landlords, tenants and building experts. - Please follow the link for the full statement. media release

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Construction of Newmarket $790m redevelopment on schedule.

The New Zealand Herald reports that Australian Scentre Group, owner of Westfield shopping malls, has released its results to the Australian Stock Exchange and confirms that the $790 million redevelopment of Westfield Newmarket will be completed by the end of this year. Read the full story here.

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Consent granted for Skyline development at Bob's Peak Queenstown.

The *Otago Daily Times* reports that the Environment Court, to which the application was directly referred, has granted resource consent to Skyline Enterprises Ltd for its proposal to expand the complex at Bob's Peak, Queenstown, install a new gondola system, build a new lower terminal and provide a 449-space car park. Read the full story here.

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South Island pastoral lease consultation begins.

Land Information New Zealand has opened consultation on proposed changes to the Crown's management of pastoral land in the South Island high country.

The Government has announced that tenure review of pastoral leases is to end.

Much of the Crown pastoral land is divided into pastoral leases used for grazing. Tenure review has been a voluntary process by which Crown pastoral land can be sold to a leaseholder and areas with a high ecological or other value, or required by the Crown for another purpose, are returned to full Crown ownership.

With the ending of tenure review, the Crown is set to be a long-term steward for pastoral land, requiring it to take a stronger and enduring stewardship role.

- Please follow the link for the full statement. Media release

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Government's new earthquake strengthening funds to help Whanganui's heritage building owners.

The *Whanganui Chronicle* reports that the Government has announced new earthquake strengthening funds, specifically for owners of heritage buildings in the regions. The funding is aimed to offer support to building owners in medium or high seismic risk areas such as Whanganui. Read the full story here.

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