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Legal Case-notes September 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 seven court decisions covering diverse situations associated with subdivision, development and land use activities from around the country;

- An appeal by a local trust against a decision of Heritage NZ grant consent to modify an archaeological site on a historic site on "unformed legal road near Kerikeri in the Bay of Islands;
- An unsuccessful appeal against refusal of consent by Hastings District Council for a two lot subdivision contrary to provisions of a proposed district plan;
- Refusal of an application for leave to appeal against an order for costs on a boundary fencing dispute in Wellington;
- An appeal against refusal of consent by Queenstown Lakes District Council to an application for land use and subdivision for residential purposes of former vineyard land at Gibbston in the Kawerau Gorge;
- A partly successful appeal against the findings of the Environment Court ("EC") in its report of 11 July 2018 to the Minister for Land Information on objections to an application by an electricity lines company to acquire easements over land under the Public Works Act 1991;
- An appeal against an interim decision of the Environment Court which had held that an area of the applicant's farm at Golden Bay was a "naturally occurring wetland" as defined in the district plan for Tasman District notwithstanding that the area had been farmed for four generations of the appellant's family.
- An application to the High Court for leave to appeal on five questions of law the decision of a district court for undertaking works in the bed of a river in Canterbury.

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CASE NOTES September 2019:

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Otahuao Burial Ground Trust v Heritage New Zealand Pouhere Taonga
[2019] NZEnvC 98

Keywords: heritage value; archaeological site; earthworks; Maori values; resource consent; reserve; kaitiakitanga; coastal

Otahuao Burial Ground Trust ("the appellant") appealed the decision of Heritage New Zealand Pouhere Taonga ("Heritage NZ") to grant an Authority, under the Heritage New Zealand Pouhere Taonga Act 2014 ("the Heritage NZ Act") to Far North Holdings Ltd ("FNHL"). The Authority was to modify/destroy part of an archaeological site ("the Site") for the purposes of constructing a road and car park for access to an existing boat ramp and jetty. The Site was a large midden in Windsor Reserve on Kerikeri Inlet ("the Reserve"). The Reserve was on an area of a legal road reserve of Far North District Council that followed the coastal margin of the Site,

originally vested in the surveying of the area under the instructions of Queen Victoria ("the Queen's Chain"). The entire area had been historically inhabited by Maori and the Site was within the rohe of Te Uri Taniwha.

The Court reviewed the terms of the Authority, and of the resource consents granted for the boat ramp and jetty, which had been in place for a considerable time. The grounds of the appeal were that Heritage NZ had failed to: take into account the principles in s 4 of the Heritage NZ Act; take into account the customary significance of the archaeological sites contained within the Reserve; properly assess the physical impact of the proposed earthworks on the midden and fish traps in the vicinity; consult with the appellant; take into account the detrimental impacts of the earthworks on the appellant's ability to exercise kaitiakitanga. The Court noted that the Authority, and the appeal, concerned the Site only; however, the Site was close to other middens and fish traps in the immediate vicinity. The Court considered its role and jurisdiction under the Heritage NZ Act and concluded that, although it might consider other such archaeological sites, the specified effects of previous works done which had disturbed such sites were outside the scope of the effects of the Authority in the present case.

The Court acknowledged the cultural concerns raised by the appellant about the loss of archaeological sites over the years, and the desire that the Site would not be destroyed. For these purposes, the Court found that the Queen's Chain area was an "historic place" under the Heritage NZ Act and that the application was limited to one of the archaeological sites forming part of such historic place. In considering the extent to which it might take into account potential effects on other sites in the vicinity, the Court considered relevant case authority and concluded that, where there was an historic place or historic area with recognised archaeological sites in the immediate proximity that might be at risk, it was appropriate and reasonable to ensure that such sites were protected from the proposed works. Although the Court distinguished between resource consent issues affecting the jetty and issues relevant to the Authority, it considered that it was critical that there be no damage caused by the works under the Authority to nearby archaeological sites. To this end, the Court stated that clear steps should be taken to ensure that sediment, materials, machinery and human activity by contractors did not disturb such sites. The Court considered the proposed management plan attached to the Authority and to the present decision and suggest amendments to ensure appropriate protection of the area. The Court also found it appropriate to impose a condition that the area between chainage 80-200 be subject to a preliminary archaeological investigation. However, given the limited jurisdiction of the Court in matters under the Heritage NZ Act (which the Court contrasted with its jurisdiction under the RMA), it was not possible to import a consideration of alternative sites. The Court concluded that the specified amendments should be made to the management plan and the conditions and, with such changes, the Court confirmed the Authority. The decision was an interim one, to give FNHL the opportunity to respond. The Court made directions accordingly and stated that it did not appear that costs were appropriate.

Decision date 24 June 2019 Your Environment 25 June 2019

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Stone v Hastings District Council _ [2019] NZEnvC 101

Keywords: resource consent; subdivision; rural; district plan proposed; precedent

B and M Stone ("S") appealed against the decisions by Hastings District Council ("the council") to refuse resource consent, and dismiss the objection, to S's proposal for a two-lot subdivision at 826 Te Apiti Rd, Waimarama ("the site". The site was 5.2609 hectares and the activity was non-complying in the rural zone.

The Court stated that the issues were: whether the proposal was contrary to the objectives and policies of the Proposed Hastings District Plan ("the PDP"); and, if so, would granting consent create an undesirable precedent or create plan integrity issues. The Court considered the proposal under s 104D of the RMA, noting that if it met one of the elements in that section then it would be considered under s 104. Both parties accepted that the effects on the environment of the subdivision would be minor. Accordingly, the Court considered the relevant planning provisions to determine whether the proposal was contrary to such provisions. Statutory instruments considered included: National and Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011; National and Environmental Standards for Plantation Forestry 2017 ("the Forestry Standards"); Hawke's Bay Regional Plan, which included the regional policy statement ("the RPS"); the Decisions Version 2015 of the PDP; and the Heretaunga Plains Urban Development Strategy. The Court noted that issues and objectives in the regional plan and RPS, which focused on the adverse effects of sporadic and
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unplanned development, were aimed particularly at land in the Heretaunga Plains. While the site was not within that sub-region, the Court stated that the provisions were directed at urban form across the whole region, and informed the district plan provisions relating to urban activities on versatile soils.

After considering expert planning evidence, the Court found that: although the site had potential for forestry, the Forestry Standards had no relevance; the possibility of amalgamation with another existing site, to create a permitted lifestyle site under the PDP, was not a realistic option in the present case; and the proposal directly challenged and was contrary to specified policies and objectives of the PDP relating to lifestyle development and subdivision in the rural zone and the protection of versatile soils. Accordingly, the Court turned to the provisions of s 104(1) of the RMA. Under "other relevant matters" the Court considered whether issues of precedent or plan integrity arose, as discussed by the High Court in *Rodney District Council v Gould* (2004) 11 ELRNZ 165. The Court agreed with the council that the proposal was a significant departure from the minimum lot size and there were no features identified which distinguished it from many other properties. Furthermore, the Court stated that the PDP had recently been prepared and should be respected as containing the most recent statement of the community's aspirations for the district and informed by the higher level instruments. Following the Court of Appeal's decision in *RJ Davidson v Marlborough District Council* [2018] NZCA 316, [2018] 3 NZLR 283, the Court did not consider that a detailed analysis of pt 2 of the RMA was necessary. Regarding s 290A of the RMA, the Court agreed with the decision of the council, with the exceptions that the Court disagreed that the proposal would diminish the productive potential of the site and with the council finding that amalgamation was feasible. The appeal was refused. Costs were reserved.

Decision date 26 June 2019 Your Environment 27 June 2019.

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Walmsley v Aitchison _ [2019] NZHC 1551

Keywords: High Court; leave to appeal; Court of Appeal

The High Court considered an application by H and D Walmsley ("W") for leave to appeal to the Court of Appeal against the High Court's costs appeal decision of 30 June 2017 ("the costs appeal decision"). By that decision, the Court declined W's appeal against the order made by the Environment Court to pay $72,500 in reimbursement costs to P and S Aitchison ("A"). The present application followed W's unsuccessful application for recall of the costs appeal decision

The Environment Court had awarded costs following enforcement proceedings seeking the removal of a structure erected by W on the boundary between W's property and that of A. The Court now reviewed the history of the litigation and noted that since the Court of Appeal's decision of November 2017 by which that Court declined W leave to bring a second appeal against the costs ordered by the Environment Court, W had continued to take steps to challenge the costs outcome. The Court now outlined such steps taken by W. Regarding the present application, the Court noted that W alleged that a miscarriage of justice had occurred. The Court first addressed a jurisdictional question as to whether the High Court's refusal of W's application for recall was an "order or decision of the High Court made on an interlocutory application", as provided in s 56(3) of the Senior Courts Act 2016 ("SCA"). The Court referred to the definition in s 4(1) of the SCA of "interlocutory application". As W's appeal was filed in June 2016, at which date the Court concluded the provisions of the SCA did not yet apply, leave to appeal to the Court of Appeal was not required in the present case. However, this was not of assistance to W because the Court of Appeal had directed the registry not to accept for filing any further documents regarding the appeal. W now alleged that he had suffered a miscarriage of justice because he had ended up with a $72,500 costs liability after the council had told him the structure was in compliance with the district plan and the RMA and did not require a resource consent.

The Court stated that the present application was yet a further attempt by W to relitigate a point that had been addressed and determined by the Environment Court, the High Court and the Court of Appeal. The Court now found it extraordinary that he would seek to relitigate the issue in such a way. The application was completely lacking in merit and constituted an abuse of process. The Court stated it had considered making an order under s 166 of the SCA restraining W from further legal action concerning the matter. However, the Court was of the opinion that A and the Court's processes were sufficiently protected by the directions now made. The application was dismissed. The registry was directed not to accept for filing any further documents filed on behalf of W regarding the costs appeal decision. Costs were
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awarded to A on a 1A basis.

Decision date 11 July 2019 Your Environment 12 July 2019.

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

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Gibbston Vines Ltd v Queenstown Lakes District Council _ [2019] NZEnvC 115

Keywords: subdivision; residential; district plan proposed; precedent; landscape protection; reverse sensitivity; noise

Gibbston Vines Ltd ("GVL") appealed the decision by Queenstown Lakes District Council ("the council") to decline its application for subdivision and land use consent, by which it sought to create a seven-lot residential subdivision on its land in the Gibbstown Valley ("the site"). The site had been developed as a vineyard in 1993 but was now lying fallow after the previous owner became insolvent and the vines were removed due to disease. The council and a number of Gibbston Valley residents opposed consent to the proposal.

The Court considered the application under s 104 of the RMA and had regard to the relevant provisions of the proposed district plan ("PDP") and the rules in the Gibbston Character zone ("GCZ") of the PDP. Furthermore, the Court gave direct consideration to landscape character and values matters in pt 2 of the RMA, following the Court of Appeal decision in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, [2018] 3 NZLR 283*,* as it found there was some lack of clarity in the GCZ provisions regarding those matters. The Court stated the determinative issues were whether granting consent to the proposal would assist or conflict with the GCZ's intentions for the protection of viticulture and rural production values or landscape character and amenity values. After considering the relevant PDP and GCZ provisions, together with expert evidence, the Court found that a prudent and informed investor would be unlikely to redevelop the site as a standalone commercial vineyard and that the potential effects on the life-supporting capacity of soils on the site was potentially in conflict with the PDP provisions.

The Court then examined the issue of reverse sensitivity and whether there was the potential for conflict between residents in the proposed development and established rural production operations in the area. The Court after considering the evidence found that there was no reverse sensitivity issue regarding sprays or herbicides. However, the question of noise, from viticulture and agriculture activities, especially pest control and frost control measures, was a potential issue. The Court considered the PDP rules and the proposed consent conditions relating to noise and stated there was ample evidence that frost fighting would be a common noise source from vineyards. The Court found that the proposal fell materially short in its management of the risk of conflict between residential development of the site and the existing and potentially intensifying viticulture. Further, there was a fundamental lack of any acoustic engineering input or assessment about noise levels anticipated from notional boundaries of dwellings. The conditions were deficient for management of reverse sensitivity risk.

Regarding effects of the proposal on landscape character and amenity values, the Court found that the GCZ was within an outstanding natural landscape but would have only negligible effects on that ONL. Accordingly, the proposal did not conflict with s 6(b) of the RMA. However, with regard to s 7(c) and (f) of the RMA, the Court stated that the singular issue was the intensity of the proposal's residential development and the capacity of the landscape to absorb types of land use change, given the residential enclaves already established in the area. After considering the expert landscape evidence, the Court found that, contrary to the intention of the PDP, as the proposal now stood, the residential intensification would further degrade landscape quality and character and visual amenity values. However, the Court acknowledged that there was potential to modify specific aspects of the subdivision design so to achieve acceptable alignment with the landscape character intentions of the PDP.

The Court concluded that the proposal, unless effectively modified, should be declined; however, provided it was modified as specified, consent was potentially appropriate. Accordingly, GVL was given the opportunity to modify the proposal within a certain time limit, failing which the proposal would be declined. The Court made directions accordingly. Costs were reserved.

Decision date 24 July 2019 Your Environment 25 July 2019
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Dromgool v Minister for Land Information _ [2019] NZHC 1563

Keywords: High Court; requirement; electricity; public work

This was an appeal against the findings of the Environment Court ("EC") in its report of 11 July 2018 to the Minister for Land Information ("the Minister") on objections to the application by Top Energy Ltd ("TEL") to acquire easements over land under the Public Works Act 1991 ("PWA"). The purpose of the acquisition was to construct a 110kV transmission line project. The appellants alleged the EC erred in law by: finding that the Minister had an unfettered discretion in determining TEL's application; treating the Minister's decision as valid when it was defective; finding that defects in the acquisition process might be cured at any point up to the EC; failing to consider that the Crown could have granted easements over its own land rather than acquiring private land; and failure by the Minister to provide reasons.

The High Court stated that its jurisdiction in the present appeal was to consider whether the EC, and not the Minister, had made an error of law and noted that any such error must have materially affected the outcome before relief would be granted. The Court reviewed the statutory framework under the PWA and the history of the project before considering the decision of the EC. The first and third grounds of appeal were addressed together: what did the Minister have to consider and could defects in that process be cured in the EC? The EC had rejected the appellants' argument that, in agreeing to the application, the Minister was required to consider certain factors, including those set out in s 24(7) of the PWA and the relevant Standard for Acquisition of Land under the PWA ("the LINZ Standard"). The Court now found that the broadly-framed discretion under s 186(1) of the RMA was not entirely unfettered but was subject to the limits described in the Supreme Court's decision in *Unison Networks Ltd v Commerce Commission* [2007] NZSC 74, [2008] 1 NZLR 42. The Court considered whether TEL's knowledge was relevant to the Minister's decision-making. Section 186(1) of the RMA allowed a network utility operator to request the Minister to exercise the power under pt 2 of the PWA. The Court stated that it followed that it must be the Minister alone who had the obligation to consider any relevant factors. However, neither the RMA nor the PWA specified criteria to be considered for the decision to acquire land in the context of an application under s 186 of the RMA. In the present case the Court stated it was implicit and also obvious from s 24(7)(b) of the PWA that the Minister was required to consider alternative routes and methods. In the absence of specific criteria, considerations to be taken into account were to be inferred from the PWA as a whole. Someone was required to have considered the factors in s 27(7)(b) of the PWA before the matter reached the EC; that person must be the Minister. It followed that the EC made an error in concluding that there was no obligation on the Minister to consider relevant factors in making the decision to compulsorily acquire easements over the subject land. Further, the Court considered it was very likely that applicants under s 186 of the RMA, the Ministry and the Minister all expected that applications would be made in accordance with the LINZ Standard.

The Court concluded that the EC erred in holding that the Minister's discretion was unfettered. It should have approached the question of alternatives under s 24(7)(b) of the PWA on the basis that this was a factor that the Minister was required to consider. The EC found there was no information of alternative routes before the Minister. As TEL's knowledge could not be attributed to the Minister, it followed that the Minister's consideration of any alternatives was inadequate. The EC's conclusion that there had been adequate consideration was therefore an error of law. Grounds one and three of the appeal therefore succeeded. The remaining grounds failed. Accordingly, the appeal succeeded in part. The report of the EC was set aside. The Court gave directions as to applications for costs.

Decision date 1 July 2019 Your Environment 01 August 2019

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Baigent v Tasman District Council _ [2019] NZHC 1750

Keywords: High Court; enforcement order; wetland; district plan; interpretation

G Baigent ("B") appealed against the Environment Court's ("the EC") interim decision of 27 August 2018 by which it was held that two areas, the northern and southern areas, on B's farm in Golden Bay ("the property") came within the definition of "naturally occurring wetland" for the purposes of the Tasman Resource Management Plan ("the plan"). It followed from that finding that specified rules in the plan had been breached, and the Court determined to make enforcement orders. The EC's final decision on the matter followed on 27 March 2019. In this appeal B challenged the EC's interpretation of "naturally occurring wetland" and argued that the

northern wetland area on the property did not come within that definition because of its historical use. The farm had been in B's family for four generations and the area in question had been drained and then used for pastoral farming. B argued that once a previously naturally occurring wetland was lost, any subsequent reappearance or feature of the land constituting a wetland could not mean that it was "naturally occurring". In addition, B argued that the EC's findings as to the exact extent of the wetlands were too uncertain.

The High Court considered the statutory and regulatory framework, including the definition of "wetland" in s 2 of the RMA, the provisions of s 338 and the relevant provisions of the plan. The plan aimed to recognise the importance of the remaining naturally occurring wetlands in the district, most of which had been lost, and provided that a resource consent was required prior to diverting or taking water from such a wetland. The Court rejected the argument that, once lost, a wetland could not subsequently re-appear in a naturally occurring state and found that the definition of wetlands which were to be treated as naturally occurring included those formed by a natural process of reversion and sedimentation. The Court stated that, absent specific intervention constructing the wetland, natural processes occurring over time to land that had been drained and then reverted to wetland fell within the scope of the definition. The Court was not persuaded that the gloss argued for was justified. There had been no error by the EC.

Turning to whether the EC's findings as to the particularity of the extent of the wetlands, the Court noted that B argued that the draft enforcement orders had not adequately described the extent of the area requiring restoration. The Court stated that B had confused the criminal standard of the onus of proof, being that the breaches had to be proved beyond reasonable doubt, with the conventional standard required in civil proceedings, which included applications for enforcement orders under s 338 of the RMA. The Court accepted that on the present facts and in the context of works in the nature of laying new drains and clearing native vegetation, a breach of the relevant plan rules could be made out without the council being precisely required to define the limits of the area concerned. Again, the Court was not satisfied that the EC had erred. The appeal was dismissed. Tasman District Council was entitled to costs.

Decision date 8 August 2019 Your Environment 09 August 2019.

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Fulton Hogan Ltd v Canterbury Regional Council _ [2019] NZHC 1767

Keywords: High Court; prosecution; charges; interpretation

Fulton Hogan Ltd ("FHL") sought leave to appeal to the High Court on five questions of law against the District Court's ("the DC") decision of 21 August 2018 ("the DC decision") to decline FHL's application for dismissal of charges under s 147 of the Criminal Procedure Act 2011 ("CPA"). The charges, laid by Canterbury Regional Council ("the council") alleged breaches of ss 338(1)(a), 339(1)(b), 13(1)(b) and s 14(2) of the RMA. The charges were essentially identical to those laid against FHL's co-defendants, Taylors Contracting Ltd ("Taylors") and F Shirtcliff ("S"). In previous decisions, Taylors pleaded guilty and was convicted and fined $35,000 and S, an employee of Taylors, was discharged without conviction. All the charges related to a single incident in which an excavator was used on the bed of a river. While dismissing the application for dismissal, the District Court made findings that: the charging documents were not a nullity and complied with s 17(4) of the CPA, except in one minor respect which was easily remedied; the charging documents fairly and fully informed FHL of the substance of the alleged acts; and although the charging documents had not disclosed that FHL was charged in its vicarious capacity or which co-defender's offences were imputed to it, such gap fell well short of rendering the charging documents a nullity. The DC ordered the council to provide further particulars concerning the liability alleged in the charging documents. In further submissions the council had alleged vicarious liability on the part of FHL for the offences committed by Taylors and that S's actions would be relevant in that the council alleged that FHL's manager and Taylors's manager instructed S to undertake unauthorised works.

In the questions of law on which FHL now sought leave to appeal the Court was asked whether the DC Judge was correct to conclude that: the charging documents were not nullities; the charging documents were compliant with s 17 of the CPA except in one minor respect; the provision of further particulars under s 18 of the CPA could remedy a non-complying charging document; (as restated by the Court) it was not necessary for the charging documents to reference s 340(1) of the RMA in order for vicarious liability to be relied upon or for the defence under s 340(2) to be available; and that s 340 of the RMA did not create a distinct offence provision. The first and fifth questions were withdrawn by FHL and the High Court restated the
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fourth question.

The High Court considered the provisions of the RMA referred to in the charges together with s 340 which concerned liability for the acts of agents, and also the provisions of the CPA dealing with dismissal of charges. The Court reviewed the findings of the DC before addressing the questions of law. Taking the second and fourth questions together, the Court considered the way in which an offence under pt 12 of the RMA was created when liability was imputed to a principal and concluded that the single, reasonable interpretation of pt 12 was that the relevant offence was created under s 338. Furthermore, s 340 was not a self-contained offence. Section 339 of the RMA, which alone provided penalties for offences under pt 12, did not identify penalties in relation to s 340 and there was no reason to believe that Parliament intended to create a stand-alone offence under s 340. Accordingly, the penalty provisions in s 339 of the RMA, accounting for each of the offences created by s 338, could be reasonably taken as covering each situation of liability under pt 12. The Court found that the DC correctly concluded that s 340 of the RMA did not create a distinct offence. In addition, the Court found that the council, if intending to assert FHL's vicarious liability under s 340 of the RMA, was not expressly required to refer to s 340 in the charging documents. Turning to consider the second question, the Court concluded that the DC was correct to conclude that the charging documents complied with s 17 of the CPA. In determining whether a defendant had been fully and fairly informed of an alleged offence, the DC was not undertaking an exercise in the abstract. With reference to relevant case authority, the High Court now stated that the DC had the required regard to the circumstances of which the defendant FHL must be aware. Accordingly, the second question was answered in the affirmative. Finally, the Court addressed the third question of law which related to whether ss 18 and 17 of the CPA had been complied with. The Court found that to adopt FHL's arguments in this regard would be to ignore the role which the Court of Appeal had recognised further particulars to have. There was no error made by the DC and the question was answered in the positive. Accordingly, leave to appeal was granted on the questions of law, which were all answered yes. The matter was remitted to the DC.

Decision date 15 August 2019 Your Environment 19 August 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 September 2019

NZLS: LINZ advises on "high risk" element in Landonline A&I Forms

Land Information New Zealand (LINZ) says it has received queries from customers about the question "Is the transaction high risk?" when generated a Private Individual or Private Corporate A&I form in Landonline.

LINZ says that at present is "No" is ticked, a sentence about the number of years the client is previously known appears. If "Yes" is ticked, a statement about a connecting document and file note appears.

"We have not changed the guidance or the requirements for High Risk transactions - see LINZG20775 Authority and Identity Requirements for E-Dealing Guideline 2018 for the detailed requirements.

"The options that now appear in Landonline relate to the two alternative ways of satisfying practitioner obligations when the transaction **is, on the face of it, High Risk** as defined in s 4.2.1:

1. **"No"** may be ticked if the client is personally known and you consider this mitigates an otherwise high risk transaction, so that it is no longer high risk (see s 4.1.1.1 for further
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guidance).

2. Alternatively, **"Yes"** may be ticked for High Risk transactions where the high risk is being mitigated via connecting documents (see s4.3) and any additional actions taken to independently verify the identity of the client, that must be recorded in a file note (see s 4.2.2)."

LINZ says if the transaction **is *not*, on the face of it, High Risk** (eg, a Transmission or Variation of Mortgage) – "you should tick **"No"** and, because it's a mandatory field, enter a number in the years box. However, you can then remove the sentence and number of years from the A&I form by editing the form in the usual way. Or, by putting a line through the wording if you have displayed it on the printed form."

- Please follow the link for the full statement.

media release Ref: 190726CA-8240

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NZLS: Landonline assessing API interest

Land Information New Zealand (LINZ) says it is looking at improving the search land record products function in Landonline by introducing APIs (Application Programming Interfaces). "These APIs will allow your existing websites and computer software to speak to and pull information from the Landonline system," LINZ says.

"This means you will be able to obtain Search products, including Records of Titles, Instruments and Cadastral Survey Plans in real-time through your own computer system without having to log into Landonline." - Please follow the link for the full statement: media release

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Amendments to Residential Tenancies Act awaiting assent

Government intends major reform of RMA

Stuff reports that Environment Minister David Parker says the Government will move to make some immediate changes to the Resource Management Act, before undertaking a wide-ranging review of the entire legislation, including how it overlaps with transport and local government laws. The review, led by retired Appeal Court Judge Tony Randerson, will be due to deliver by June 2020. Read the full story here.

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Waste dumped near Great Barrier Island - High Court to decide _

Radio New Zealand reports that two environmental groups have challenged the decision by the Environmental Protection Authority to grant consent to Coastal Resources Ltd to significantly increase the volume of waste sludge dumped offshore from Great Barrier Island in the Hauraki Gulf. The High Court has reserved its decision on the appeal and judicial review application. Read the full story here.

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Remarkables Park Ltd withdraws appeal against Queenstown Airport taking of land _

The *Otago Daily Times* reports that the long-running dispute between Queenstown Airport Corporation and development company Remarkables Park Ltd ("RPL") about the designation of RPL's land on the airport's boundary has ended with the last-minute withdrawal of RPL's appeal to the High Court. Read the full story here.

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New $150m hotel at Auckland Airport _

The *Waikato Times* reports that a five-star $150 million hotel is being constructed at Auckland Airport by Tainui Group Holdings ("TGH"), in joint venture with Auckland Airport. Chief executive Chris Joblin said the hotel would "expand the footprint" of TGH in the tourism industry. The hotel is planned to open in about three years from now. Read the full story here.

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Local authorities said to lack seismic building compliance knowledge _

Radio New Zealand reports that Steel Construction New Zealand (SCNZ) says that local councils lack adequate understanding of steel frames and seismic strength, although they are required to approve major building projects. Auckland Council is sharing its steel compliance checking system with other local authorities and SCNZ will be briefing other councils about compliance. Read the full story here.

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Climate change and predators adverse effect on native birds

The New Zealand Herald reports that Dr Susan Walker, of Manaaki Whenua – Landcare Research, an author of a study into distribution of birds in New Zealand, says that threatened and vulnerable native birds are being forced to occupy colder, higher areas to avoid climate change and predators. See the full story here.

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Whakatane DC offers property buy back of Matata properties

Radio New Zealand reports that Whakatane District Council has given Matata residents whose properties are at risk of debris flow damage the option of selling their houses at market value so that a voluntary managed retreat from the "high loss of life risk zone" can be arranged. Read the full story here.

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Invercargill DC proposes $30m investment in CBD redevelopment

The *Otago Daily Times* reports that Invercargill City Council's proposal to spend $30 million on upgrading the city's CBD has been criticised by a ratepayers advocacy group which raised concerns about the consequential increase in rates to fund the project. However, retailers support the redevelopment as being essential to prevent the inner city becoming "lifeless and unattractive". The public hearing is ongoing. Read the full story here.

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DoC reports increase in kakariki karaka numbers _ Westlaw NZ | Checkpoint NZ | Alert24 NZ 18/7/2019

Radio New Zealand reports that the Department of Conservation say that the recent surge in native orange-fronted parakeets, a taonga species for Ngai Tahu, may be a consequence of this season's beech seed mast. The birds are found in Arthur's Pass National Park and Lake Sumner Forest Park and DoC has been working with Ngai Tahu and other conservation groups in a recovery programme for the budgie-sized bird. Read the full story here.

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Te Papa Manukau development plans shelved _

Radio New Zealand reports that Te Papa's plans to construct a new museum and storage facility in Manukau, South Auckland, on land to be donated by Auckland Council, has been denied funding by the Government and the museum's chief executive Geraint Martin says the project was not now a priority. Read the full story here.

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Leaky building $200m legal action against James Hardie Industries

The New Zealand Herald reports that the High Court has ordered James Hardie Industries to produce specific documents requested in discovery by claimants against the building cladding manufacturer. The plaintiffs in the $200 million lawsuit include owners of residential homes, commercial buildings and retirement villages clad in James Hardie products which they claim resulted in the buildings leaking. Read the full story here.

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Avenue of oak trees saved by council

Stuff reports that Marlborough District Council has decided to save an avenue of oak trees along Dog Point Rd, near Renwick. The council has agreed to put $14,000 set aside to axe 70 oak trees towards underground powerlines, saving them from being felled. Read the full story here.

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Fonterra to stop building new coal boilers

Stuff reports that Fonterra will stop installing any more new coal boilers to run its factories. The company has 32 manufacturing sites across the country, of which about 40 per cent use coal. Read the full story here.

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Cosmetics wastewater discharged to drain on Queen Street

Radio New Zealand reports that New Zealand Maori Council's Matthew Tukaki has criticised cosmetics company Sephora, which opened a new store in Auckland's Queen St at the weekend and fired a cannon full of paper confetti into the air. Mr Tutaki says he witnessed this paper waste being collected in laundry tubs and tipped down public drains, some of which discharge into the Harbour. Mayor Phil Goff has stated that consent was not granted to such discharge and Auckland Council would investigate the matter. Read the full story here.

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$4m replacement Sutton bridge opened

The *Otago Daily Times* reports that the newly constructed $4 million Sutton-Mount Ross Rd bridge has been opened, following the destruction of the old heritage suspension bridge which was swept away by floods in 2017. The new bridge is designed to withstand future flooding events. Read the full story here.

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Napier CC stormwater concerns lead to new bylaw

orts that a bylaw proposed by Napier City Council would improve outcomes for Ahuriri Estuary by introducing more stringent rules regarding discharges of contaminants to stormwater. Read the full story here.

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Report on effects of micro plastics
Radio New Zealand reports that Canterbury University environmental chemist Sally Gaw, contributor to a new report by the Royal Society on the world's reliance on plastic, says that the environmental effects of micro plastics entering the food chain are not yet fully understood and there is incomplete data as to what and how much plastic goes into New Zealand's recycling bins and landfills. See the full story here.
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Eviction of protesters opposing development of Mangere land for housing
Radio New Zealand reports that the occupiers in protest of land at Ihumatao, Mangere, 32 hectares of which is zoned for Special Housing and which is owned by Fletcher Building and the subject of consents for the construction of housing, have been given a notice of eviction. Appeals against the housing development all failed and a spokesman for Fletcher said that under the consents a quarter of the land would be returned to mana whenua. Read the full story here.
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Taranaki's Green School begins construction
Stuff reports that construction is underway of the Green School, at its Koru Rd campus in Oakura. The design includes three learning pods, a two-storey dwelling which will function as a multi-purpose resource centre and a service building near the school's entrance. Read the full story here.
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Challenge to council decision to block construction of
Hawke's Bay Today reports that the New Zealand Sikh Society Incorporated (Hastings) has objected to an application for the construction of a new temple being declined. In January, Hastings District Council declined a resource consent application for the proposal. Read the full story here.
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Many more apartments reaching completion in Auckland
OneRoof reports that Colliers International has issued a report confirming that 36 new apartment building projects were embarked upon in Auckland over the last six months, with over six thousand apartment units expected to be constructed by the end of 2020. Read the full story here.
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Sleepyhead $1b Waikato development
The New Zealand Herald reports that Sleepyhead's Craig Turner says that the company's plans to build a $1 billion residential development in North Waikato will allow it to expand its operations away from Auckland and also house employees close to their workplace. Read the full story here.
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Auckland Council spends $1.9m on internal legal disputes
The New Zealand Herald reports that two legal disputes between different arms of Auckland Council have cost almost $2 million. The court actions concerned a residential development on Dominion Rd and the construction of a seawall in Orewa. Read the full story here.
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New Plymouth council building maintenance costs $2 million over budget
Radio New Zealand reports that New Plymouth District Councillors are questioning the two million dollar overrun in cost of work to re-roof and undertake maintenance on the 30-year old civic centre council building. Read the full story here.
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Stuff reports the Residential Tenancies Amendment Bill (No 2) is awaiting assent. Key amendments to the Residential Tenancies Act include:

- When a tenant is liable for the destruction of or damage to an insured property, the landlord can claim their excess or four weeks' rent, whichever is lower.
- The Act applies to contaminants more generally rather than just methamphetamine.
- Tenants are able to leave a property with two days' notice when it is an unlawful residential premises - such as an unconsented sleepout or garage - and could also be given back any rent they paid.- Read the full story here.

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Real estate agent fined for selling house with illegal rooms

The New Zealand Herald reports an Auckland real estate agent has been fined $3,000 by the Real Estate Authority Complaints Assessment Committee after selling a property with an unconsented kitchenette and two unconsented bedrooms. The agent had advertised the house as having five bedrooms, two living rooms, two bathrooms, one kitchen and a kitchenette.
- Read the full story here.

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