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Legal Case-notes April 2020

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;

- A conclusion to an appeal to a decision by Auckland Council on an application to subdivide a property at the north end of Clevedon, a rural township in south east Auckland;
- The judicial review of a decision by Marlborough District Council to refuse to determine an application to transfer a water permit from one parcel of land to another;
- Two decisions relating to an enforcement order against an owner who was depositing unlawful filling material on a property near Helensville;
- Is a tiny house a building? Is it when is it a vehicle? What is it if it can readily be removed? A decision relating to a "tiny house" at Taita in Hutt City;
- A split decision on an appeal against consents of the BOP Regional Council and Whakatane DC to treble the quantity of ground water taken from Otakiri Springs for expansion of an existing water extraction and bottling operation.
- Not yet the final court case involving a Mr Mawhinney and Auckland Council.

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CASE NOTES APRIL 2020:

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Clevedon North Ltd v Auckland Council _ [2019] NZEnvC 195

Keywords: resource consent; conditions; subdivision; consent order

By this decision the Environment Court approved conditions of consent for the proposal to subdivide 52 North Road, Clevedon, in south east Auckland, into 62 lots, with an esplanade reserve, two reserve lots and four common access lots. The development was overall a non-complying activity under the Auckland Unitary Plan.

The Court noted that all parties agreed that consent should be granted. The Court, having considered the issues raised and the position now reached by the parties, was satisfied that resource consent should be granted, in accordance with the conditions annexed to the present decision. Regarding the decision made by Auckland Council's Commissioners, the Court considered that the changes subsequently made and agreed to the proposal justified the grant of consent and that the conditions would ensure the outcomes anticipated. Such conditions included: prohibition on further subdivision; a design guide; the vesting of the esplanade reserve; the construction of the walkway; and the maintenance of the eastern escarpment trees and open area. There was no issue as to costs.

Decision date 22 January 2020 - Your Environment 23 January 2020

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Woolley v Marlborough District Council _ [2019] NZHC 2726

Keywords: High Court; judicial review; water permit; consent lapse; council procedures; declaration.

The High Court considered the application by PJ Woolley ("W") for judicial review of the decision by Marlborough District Council ("the council") to refuse to process W's application to transfer a water permit ("the permit"). W sought, under s 136 of the RMA, to transfer the permit from one parcel of land to another. Part of the permit was transferred to Constellation Brands New Zealand Ltd ("CBNZ").

The Court stated that at the heart of the proceedings was the issue of whether the permit had lapsed. The council declined to process W's application because it interpreted *Koha Trust Holdings Ltd v Marlborough District Council* [2016] NZEnvC 152, a decision of the Environment Court ("the EC decision") as having held that W's resource consent U060329 to take water had lapsed. W now disputed that this was the correct interpretation of the EC decision which, W contended, did not hold that the consent had lapsed. The council counterclaimed, asking for a declaration that the consent had lapsed. The Court reviewed the history of the proceeding and the EC decision, in which the EC declined to make a declaration as to lapse.

The High Court stated that the following issues arose: was the council's failure to process the s136 application amenable to review or was it an appeal question; and did the council err in rejecting the s 136 application. Regarding the former, the Court found the matters at issue were amenable to judicial review for three reasons. First, the council did not exercise its statutory powers under s 136 of the RMA, nor under any other section of that Act. This came within s3(1)(b) of the Judicial Review Procedure Act 2016 ("JRPA"), and W was entitled to review the failure of the council in the circumstances. Second, there was no decision made by the council which might be appealed under s 120 of the RMA in the present case. Apart from noting its records and relying on its interpretation of the EC decision, the council expressly advised that it was not making a decision. Third, the Court rejected the council's contention that W's application was incomplete; the council gave no reasons for such a determination when it returned W's application and the Court did not uphold the council's submission that W should have objected under s 357 of the RMA. The council did not exercise its powers under s 88 of the RMA and so the right of appeal under s 120 was not engaged. Turning to address whether the council erred by rejecting the s 136 application, the Court examined the findings in the EC decision noting, however, that it could not substitute its opinion for that of the lower court. Rather, its role was to enquire as to whether the council had fallen into reviewable error. The Court stated that the EC declined to grant a declaration that W's consent had lapsed, however, it was unclear from the decision whether the EC held that the whole consent or part of it had, in fact, lapsed. The Court said that there was a lack of analysis of the evidence pointing to W's failure to comply with the permit conditions. If the permit had lapsed, the Court now said that a declaration should have been made, as sought.

The Court now stated that it was not open to the council to decline its jurisdiction under s 136 of the RMA. Furthermore, from its own records it was plain that the council had treated the consent as live after the lapse date: it transferred a part of the consent to CBNZ and further consents were granted on the basis that it had not lapsed. The Court stated that the council's approach was flawed; one part of a lapsed consent, acquired three years after the lapse date, could not be valid when the remainder was treated as lapsed. Section 136(4)(b) required in mandatory terms that W's application "shall be considered". The council's interpretation of the EC decision bore little resemblance to what the decision actually held. The Court concluded that the council took the view that the EC had effectively made a firm decision that W's portion of the permit had lapsed and then treated its own previous decisions both pre and post the EC decision as "not-negating" the lapse. The Court found that the council failed to exercise its powers as required under s 136 of the RMA. This was a reviewable error. The Court stated that W was entitled to relief under s 16 of the JRPA and, under s 17, the Court directed that the council was to reconsider W's application. Directions as to costs were given.

Decision date 12 December 2019 - Your Environment 13 December 2019.

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Auckland Council v Noe _ [2019] NZEnvC 159

Keywords: enforcement order interim

Auckland Council (“the council”) applied ex parte for interim enforcement orders against R Noe (“N”) respecting unlawful fill that had been placed on N’s land, and on adjacent land, at 2294 State Highway 16, Helensville (“the site”). The orders were sought under ss 314(1)(a)(i), 314(1)(b)(i), 314(1)(da) and 315(2) of the RMA. The grounds for the orders included that if the activities did not cease: they would continue or were likely to, contravene specified provisions of the Auckland Unitary Plan (“AUP”); and that the orders were necessary to avoid, remedy or mitigate actual or likely adverse environmental effects including those to human health, soil and water.

The Court considered the evidence of the council as to the history of the proceedings. Council officers had reported earthworks including construction fill and debris, including concrete, metal and plastic at the site which raised the ground level above that permitted. The council issued an abatement notice to N and subsequently undertook a search, under warrant, of the site, which resulted in a further abatement notice being issued. Soil samples taken at the site showed that lead, zinc, pesticides, and asbestos were present which demonstrated that the fill was not cleanfill and exceeded the AUP criteria for soil acceptance.

The Court considered the grounds for making an ex parte order under s 320(2) of the RMA, noting that it was a significant matter to make an order against a person who knew nothing about it until he was served with it. The Court stated it had called a judicial telephone conference with N and the council. This procedure was a half-way house, referred to as being on a *Pickwick* basis, between proceeding on notice and doing so ex parte. At the conference N had advised he would take steps to deal with the problem. After three such conferences and a hearing, the Court made revised orders.

The Court stated it was satisfied it was necessary to make interim orders against N in relation to the contaminated fill on the site as there was a strong arguable case that the material deposited contained unlawful fill. It was also appropriate to make orders to prevent further non-compliance, limit the risk of contamination and require the preparation of a remediation plan. The Court was further satisfied that, by proceeding on a *Pickwick* basis and holding a hearing at short notice, the interests of justice were protected. Accordingly, the Court made interim enforcement orders as set out in the decision, to take effect from when they were served. Costs were reserved.

Decision date 15 October 2019 Your Environment 16 October 2019.

Auckland Council v Noe _ [2019] NZEnvC 204

Keywords: enforcement order

This decision followed *Auckland Council v Noe* [2019] NZEnvC 159, where the Court made interim enforcement orders against Mr Noe (“N”) which required, among other things, the preparation of a site plan within seven days from the date of the orders, the undertaking of stabilisation and mitigation works within 21 days of submission of the site plan, and the submission of a detailed remediation action plan and an erosion control plan within 28 days of submission of the site plan. These orders had not been complied with. Auckland Council (“the council”) now applied for consent under s 315(2) of the RMA to comply with the orders on N's behalf. N opposed the granting of such consent by the Court.

The Court stated that it was clear that the Court's orders had not been complied with, contrary to s 315(1)(a) of the RMA and it was therefore open to the council to seek consent under s 315(2) to comply with the orders on N's behalf and to recover the costs and expenses of doing so from N as a debt. The Court considered it appropriate to grant consent for the council to comply with the orders on N’s behalf. Costs were reserved.

Decision date 31 January 2020 - Your Environment 3 February 2020.

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Antoun v Hutt City Council _ [2020] NZEnvC 6

Keywords: abatement notice; stay; district plan; interpretation; building

This decision concerned the status under the Hutt City District Plan ("the plan") of a "tiny house". F Antoun ("A") appealed against the abatement notice ("the notice") issued on 16 July 2019 to him by Hutt City Council ("the council"). The notice required him to remove the two-storey structure built at the rear of his property at 14 Molesworth St, Taita ("the property) as it did not comply with rules in the plan and no application had been made for either a building or a resource consent. The property was in a residential zone. The grounds for the appeal were that
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A asserted that the tiny house was a vehicle, not a building, and therefore not subject to the plan rules.

The Court considered four issues: the issue of the tiny house; whether the tiny house was a vehicle; whether the tiny house was a structure as defined in the RMA; and the validity of the notice. Regarding the first issue, the Court noted that A's house had suffered earthquake damage requiring repairs and while such repairs were ongoing he sought temporary facilities. The tiny house was built for this temporary purpose, with a view to towing it off the property when the repairs were completed. A level area of the ground at the rear of the property was cleared on which a steel base was laid, on top of which the structure was constructed. The tiny house dimensions were eight metres long, 3.2 metres wide and 4.5 metres high; it was to comprise a bathroom/laundry, kitchen and living facilities with a mezzanine bedroom. Power and other facilities were intended to be connected. The Court stated that the case had nothing to do with the merits or otherwise of tiny houses and the plan contained no provisions as to the minimum size of a dwelling. The council's concern was that the structure did not comply with various conditions with which all buildings in the zone were required to comply and so required consent. The Court was not persuaded that people constructing tiny houses should not be subject to any applicable statutory requirements.

Regarding the second issue, after considering definitions in the Land Transport Act 1998, the Court concluded that the tiny house was neither a "motor vehicle" nor a "vehicle"; it was not equipped with wheels, tracks or runners on which to move and not drawn by mechanical power and was not a trailer. The Court stated that on inspection the structure was patently a house and A had not satisfied the onus on him to establish otherwise. The Court considered it absurd that the tiny house might be considered a vehicle.

Turning to consider whether the tiny house was a "structure", in RMA terms, and after considering the relevant definitions in the plan and in the RMA, the Court determined that the key matter was whether or not the tiny house was "fixed to land" (s 2 of the RMA). After considering submissions and relevant case authority, the Court stated that the only way to get the tiny house onto a road was by crane and no evidence was produced as to the legal or physical feasibility of transporting the tiny house from the property. The Court found as a matter of fact that the tiny house was fixed to land; it was held in place by its own weight and bulk and was "patently" not annexed to the land. It was a structure as defined in the RMA, and was accordingly subject to the plan rules identified in the notice.

Finally, the Court considered the validity of the notice. The council had issued an earlier abatement notice but had cancelled it on the grounds of an error. The appeal was based on the grounds that the council had not shown reasonable basis for the opinion that the tiny house was a structure and secondly that the notice did not provide a reasonable time for compliance (10 days). The Court found the first ground failed but that there was merit in the second. Ten days was not a reasonable period to allow for deconstruction and removal of the tiny house. Furthermore, the Court rejected the council's submission that regard should be had to the period of time for compliance allowed in the first, cancelled notice. The Court said that the terms of the first notice could not now be taken into account. In addition, the Court found that another aspect of the notice's validity arose under s 322 of the RMA. The ability to issue a notice requiring A to remove the tiny house arose pursuant to s 322(1)(b): it was a positive requirement directing A to do something. However, the notice in the present case was stated to be issued under s 322(1)(a)(i) of the RMA, which was clearly incorrect. The citation of the provision of the Act enabling the issue of the notice was wrong and this, combined with the insufficient notice given, meant that the abatement notice was fatally flawed. The Court observed that it might be appropriate for the council to immediately reissue an abatement notice in the proper form, taking into account the amount of work A was required to undertake to comply.

The Court declined to reserve costs, notwithstanding A's success, observing that A chose to construct the tiny house without a building permit or resource consent on a farcical basis and was the author of his own misfortune. On the other hand, the council had "mucked up" the issue of the notice and should bear its own costs.

Decision date 19 February 2020 - Your Environment 20 February 2020

(See also a newspaper report of a court decision on a “tiny house” in Canterbury, at the end of the news items below. - RHL)

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Keywords: resource consent; conditions; water take and use; water; cultural values

The Environment Court considered appeals against the grant of a variation of consents to Creswell NZ Ltd ("Creswell") to take ground water to enable the expansion of an existing water extraction and bottling operation at Otakiri Springs, Otakiri ("the site"). Cresswell was a subsidiary of a company incorporated and operating in China and sought consents from Bay of Plenty Regional Council ("the regional council") and Whakatane District Council ("the district council") to expand the groundwater take and the water bottling plant. Te Rūnanga O Ngāti Awa ("the Rūnanga") appealed against the regional council consents of groundwater take on the grounds of adverse effects on te mauri o te wai (the metaphysical spiritual essence of the water) and on the ability of Ngāti Awa to be kaitiaki of the water resource. Sustainable Otakiri Inc ("Sustainable Otakiri") appealed against the district council consents to vary conditions applying to the existing land use consent, raising issues of: the Court's jurisdiction to grant the application under ss 104(3)(d) and 127 of the RMA; the definition and activity status of the proposal under the district plan; the consistency of the proposal with the planning instruments; the effects on rural character and amenity and loss of productive land; and the alternative locations and zonings in the plan.

The Court was divided, with Judge Kirkpatrick and Commissioner Buchanan giving the majority decision, and the minority opinion being delivered by Commissioner Kernohan. The majority reviewed the proposal, noting that the groundwater right was originally granted in 1979 for kiwifruit irrigation and the current total allowable take was 327,000 cubic metres per year. The maximum annual volume now sought by Cresswell was 1,100,000 cubic metres. The relevant planning instruments included the Bay of Plenty Regional Policy Statement and the Bay of Plenty Natural Resources Plan ("RP"). The majority noted that Proposed Plan Change 9 ("PC9) amended Chapter 7 of the RP as the first in a two-step approach to give effect to the National Water Policy Statement on Freshwater Management 2014. The Court accepted that PC9 should be given significant weight. The site was zoned Rural Plains, which zone had a primary production purpose. The majority stated that the Court's jurisdiction was limited to the ambit of the RMA, in particular s 104. The majority acknowledged that the Rūnanga's case was that the water take application was "for too much water to be sold too far away" and raised the tikanga effects of the proposal in the context of the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples 1993. The Rūnanga urged the Court to consider the end use of the water which was to be bottled and exported to China. However, while the majority acknowledged the growing public concern and political debate about foreign-owned interests exporting high quality New Zealand water without having to pay royalties to do so, and about the use of plastics designed for single-use, these matters did not confer jurisdiction on the Court to consider them in the present case. After addressing case authority relating to the end use of something resulting from an activity under the RMA, the Court stated that it must have regard to the consequential effects of granting the consents sought within the ambit of the RMA and subject to limits of nexus and remoteness. In the present case, the RP comprehensively addressed the issues relating to the taking of water from aquifers. The end uses of the water, once taken, were ancillary activities which were not controlled under the regional plan, within the ambit of s 30 of the RMA. The majority considered that it could not effectively prohibit either the use of plastic bottles or the export of bottled water. Such controls would require direct legislative intervention. The Court found that the end uses of the water was beyond scope of the application for consent under s 104(1)(a) of the Act.

The majority then considered expert evidence as to the effects of the respective consents sought, finding that the volumes and rates applied for by Creswell would have negligible adverse effects on the water source and that any effects on te mauri o te wai could be managed through an appropriate kaitiaki involvement by local hapū and the Rūnanga. The adverse effects of the district council consents could be mitigated to an acceptable level by the suite of consent conditions. Accordingly, the majority found that the consents could be granted with conditions. The parties were directed to submit an agreed final set of conditions.

The minority opinion was that the applications should be declined, because of concerns about the adverse effects on the environment of the end use of plastic bottles manufactured on the site. Current production was 8,000 bottles of water per hour. The proposed total would be 154,000 bottles per hour, equating to 3.7 million bottles per day, and 1.35 billion plastic bottles per year for the next 25 years. The minority stated that in the present case the Court had heard very little evidence about the environmental consequences of creating 1.35 billion new plastic bottles per year, nor of any proposal to remedy or mitigate the pollution effects of this. The

minority argued that this matter and its effects came within the sustainable management purpose of the Act. In addition, the minority considered that the activity of the proposal was not rural or commercial, as the original take had been, but had changed to an industrial activity and as such a new resource consent was required, not, as the present application sought, a variation of an existing consent. Costs were reserved.

Decision date 23 January 2020 - Your Environment 24 January 2020

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Mawhinney v Auckland Council [2020] NZCA 26

Keywords: Court of Appeal; procedural; time limit

The Court of Appeal considered the application by P Mawhinney ("M"), made under r 43(2) of the Court of Appeal (Civil) Rules 2005 ("the Rules"), for an extension of time to file an appeal and seek a hearing date. Auckland Council ("the council") opposed the application. The relevant appeal was against the extended order made by the High Court in February 2019 ("the HC order") under s 166(2) of the Senior Courts Act 2016 ("the SCA") restraining M from commencing or continuing civil proceedings relating to certain land in Waitakere, Auckland. For 25 years, M had engaged in litigation with the council over development of the land. M had filed a notice of appeal against the HC order (a day out of time, but an extension was granted) but failed to seek a hearing date, with the result that his appeal was deemed abandoned under r43(1) of the Rules.

The Court noted that the grounds for M's appeal included a specific challenge to the HC order's conclusion that at least two of the previous proceedings taken by M identified by the council were totally without merit. M now asserted that the HC had misinterpreted the phrase "totally without merit" in s 167 of the SCA. M also asserted that his appeal was filed within time and that the HC order rested on proceedings dating back to 1994 which would be difficult to locate. In response, the council said that the key issue in the proposed appeal was the meaning of "totally without merit" which was a question of law and further factual material was irrelevant.

The Court stated that the overarching consideration in determining an application under r43(2) of the Rules was the interests of justice. The relevant factors, derived from case authority included: the length of the delay; the parties' conduct; any prejudice caused; the prospective merits; and whether any issues of public importance were raised. The reason for M's delay was his incorrect perception that material not before the High Court when it made the order could and should be adduced for the purposes of the proposed appeal. The Court confirmed that an appeal by way of rehearing in the Court of Appeal was conducted on the record of evidence given in the lower court. This error by M, a lay litigant, was understandable, despite his considerable experience in court proceedings. The Court considered that to allow further time would not lead to an identifiable prejudice to the council. Further, M's alleged lack of cooperation arose from his mistaken view as to the proceedings and should not be held against him. In the circumstances, the Court was satisfied that the application should be granted and made orders accordingly.

Decision date 12 March 2020 - Your Environment 13 March 2020

(Reports of the many court cases involving Mr Mawhinney and Auckland Council on subdivision-related matters, have been documented in previous issues of Newslink – RHL)

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The above brief summaries are extracted from "Alert 24 - Your Environment" published by Thomson Reuters and are reprinted with permission. They are intended to draw attention to decisions that may be of interest to members. Please consult the complete decisions for a full understanding of the subject matter.

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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 2020

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Environment Minister doesn't follow up on legal action option against New Zealand Aluminium Smelters regarding Mataura hazardous dross waste

Radio New Zealand reports that, although David Parker, the Environment Minister, has written a letter to New Zealand Aluminium Smelters, which is mostly owned in turn by Rio Tinto, expressing the Government's "extreme" disappointment about the lack of action in removing and disposing of the 10,000 tonnes of aluminuium dross dumped in a Mataura mill, he has not repeated his earlier expressed intention to consider taking legal action against the smelter company. Read the full story here.

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Local authorities criticised by the NZ Green Building Council

Stuff reports that NZ Green Building Council's Andrew Eagles has criticised local authorities for lack of transparency about the energy efficiency of their buildings, despite the declaration by many councils as to climate emergency. Eagles says some councils still burn coal and seven named councils scored 0-2 stars on energy efficiency, a "poor to below average performance".

Read the full story here.

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Billions needed to fix Wellington's water system

The New Zealand Herald reports that the Local Government Commission has been informed that the cost of replacing asbestos cement pipes in the Wellington region will be $2.6 billion. Water New Zealand technical manager Noel Roberts says the short lifespan of such pipes was not understood when they were installed in the 1950s and concerns have been raised when the progressive internal failure of the pipes resulted in increased quantities of asbestos entering the water. Read the full story here.

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Storage of rubbish bales not welcomed by Belfast residents

Radio New Zealand reports that residents of Belfast and Spring Grove have made it clear to Environment Canterbury that they do not want Renew Energy to continue to store 40,000 plastic-wrapped bales of waste at a site in Spencerville Rd, Christchurch for five years. The company wants to built a waste-to-energy plant using the waste, although no resource consent for such a project has been granted. Read the full story here.

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WEL Networks plans to build solar farm

Radio New Zealand reports that Waikato's WEL Networks lines company is exploring the possibility of using land in the region to build a solar energy farm, to have the project up and running within the next financial year. Read the full story here.

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Iwi leader permitted to sue seven companies for carbon emissions

Stuff reports that Mike Smith, chairman of the Climate Change Iwi Leaders Group, has been granted permission by the High Court to proceed to trial with a claim against seven companies claiming that they had failed to protect New Zealand from climate change and had not done enough to reduce carbon emissions. Read the full story here.

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Research data shows dramatic loss of native habitat

The New Zealand Herald reports that Manaaki Whenu-Landcare Research data has shown that thousands of hectares of native habitat have been recently lost to grasslands and other uses.
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Forest and Bird's Chief Executive Kevin Hague says the trend is pushing our environment to breaking point. Read the full story here.

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Position in relation to rural urban boundary has price effect on Auckland houses

The New Zealand Herald reports that Auckland Council's placement of the limits of the rural urban boundary under the AUP has an estimated $50,000 effect on house prices. Read the full story here.

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Govt proposal to protect Southland's biodiversity has a cost

The *Otago Daily Times* reports that Southland District Council is facing costs of $9 million if it is to comply with the first stage of the proposed National Policy Statement for Indigenous Biodiversity. Read the full story here.

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Tour operator prosecuted by DOC for illegal use of public land

Radio New Zealand reports that Active Planet tour company has been convicted and fined $12,000 for undertaking commercial guiding without a permit in three South Island scenic reserves in public land. Read the full story here.

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Central Otago DC makes submission to Parliament on proposed housing development powers of Kainga Ora agency

The *Otago Daily Times* reports that Central Otago District Council has expressed, in a Parliamentary submission, the reservations of the council concerning the extraordinary powers which will be given to the Kainga Ora Housing and Communities agency under the Urban Development Bill, including the power to coordinate large-scale housing development projects. Read the full story here.

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Drought declared over much of the country

Radio New Zealand reports that Agriculture Minister Damien O'Connor has declared all the North Island and parts of the South Island, together with the Chatham Islands, as being in drought, an adverse event declaration on top of those announced already in other areas. Two million dollars hardship funding will become available following the declaration. The Minister said such dry conditions have not been experienced in New Zealand since the early twentieth century. Read the full story here.

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Delays to construction projects feared due to Coronavirus

Radio New Zealand reports that the building industry is concerned that the economic impacts of Covid-19 coronavirus will extend into the second half of the year and delay major projects. Larger players in the construction sector had stockpiled a few months' worth of some materials from China, such as steel and concrete, due to the expected annual slowdown over Chinese New Year, but Building Industry Federation chief executive Julien Leys said those buffers would not last forever. Read the full story here.

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Australia: Federal government negotiating with NSW over water-sharing plans for Murray-Darling river system

The Guardian reports that the Federal Government has backed off from a formal process to take over New South Wales river management and instead is having "good faith" negotiations with the State over when it will lodge 20 water-sharing plans for its rivers in the Murray-Darling. Read the full story here.

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Geosynthetic membrane may replace concrete face in Waimea dam build

Stuff reports that a geosynthetic (PVC) membrane may be used instead of a concrete face for the Waimea dam, which is under construction near Nelson. This would be expected to improve resilience and to deliver time and cost savings to the project, for which the forecast build cost has blown out by an estimated $25 m to $129.4 m. Read the full story here.

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Drury "new town" in South Auckland

The New Zealand Herald reports that a $2.4 billion Government investment in new roads and rail in South Auckland will pave the way for New Zealand's first "new town" at Drury. Major developers are under way with plans for a new town centre and commercial district, as well as residential homes and an industrial park. Read the full story here.

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Wakatipu High School expansion

The *Otago Daily Times* reports that Wakatipu High School is to be expanded to accommodate another 600 pupils. The school in Frankton opened at the beginning of 2018 and cost more than $50 million. Principal Steve Hall said the construction programme would include modifications to the building and an extension. Read the full story here.

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Forestry road permit declined in Marlborough Environment Plan

Stuff reports that commissioners have declined New Zealand Transport Agency's proposal to force forestry trucks to get consent to drive on or cross state highways in Marlborough. NZTA hoped the new rule would allow it to better judge the potential damage that forestry trucks might cause, then manage effects. Read the full story here.

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More snow on South Island glaciers

Radio New Zealand reports that the results of this year's survey by NIWA and Victoria University show the South Island's glaciers in better shape than in the past two years. However, NIWA climate scientist Andrew Lorrey warned that a similar pattern over decades would be needed before it could be considered a recovery. Read the full story here.

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Two earthquake-prone buildings in Nelson to close

Stuff reports that the Nelson City Council says Stoke Memorial Hall and the Refinery building in Halifax St will close by the end of March. The council-owned buildings are known to be earthquake-prone. Read the full story here.

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Invercargill CC faces increased costs for CBD block development

The Timaru Herald reports that ratepayers of Invercargill, who are already facing a $30 million bill for the demolition and redevelopment of a block in the CBD, will now be asked by the city council to pay a further $16 million for the project. The extra money is needed following the withdrawal of previously committed funds by Geoff Thomson. Read the full story here.

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Call for wetlands to replace farm paddocks on Kapiti Coast public land

Stuff reports that environmentalists are urging Greater Wellington Regional Council to restore 350 hectares of public land at Queen Elizabeth Park on the Kapiti Coast, presently used for unprofitable grazing, back into the original wetlands. One hectare of land converted to wetlands has been shown to absorb up to 14 tonnes more carbon than one hectare of grasslands in one year. Read the full story here.

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Oil spill in Tauranga Harbour

The New Zealand Herald reports that Bay of Plenty Regional Council is investigating an oil spill in Tauranga Harbour. As the matter was under investigation, the council would not comment on the sources of the spill or likely volume of oil spilt. Read the full story here.

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New Christchurch fire station to be built

Stuff reports that Christchurch's new central fire station has been approved and will be built on the Kilmore St site of the old one which has been demolished. The new station, to be completed by 2022, will have an appliance bay for four fire engines, and rooms for training and meetings plus a quiet room and gymnasium. Read the full story here.

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Ammonia gas level breached resource consent conditions

The *Otago Daily Times* reports that the outdoor reading of ammonia gas level taken at the Mataura paper mill breached the retrospective resource consent granted by Gore District Council. Mayor Tracy Hicks says the time has come to expedite the removal of the dross left by Taha Fertiliser Ltd from the town. Read the full story here.

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Foxton wastewater plant changes on target

The *Manawatu Standard* reports that the $9 million project involving Horowhenua District Council changing the Foxton wastewater plant, so that it ceases discharging into the Manawatu River and instead disharges to farmland, should be completed by 2022, as consented to by the Environment Court. Read the full story here.

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Dunstan Golf Club members say district council "grabbed" land

The *Otago Daily Times* reports that the action by Central Otago District Council in taking part of Dunstan Golf Club land for use as a sewage and wastewater pumping station has angered golfers and local residents who say, in a petition signed by 300 people, that the land was "grabbed" without proper consultation. Read the full story here.

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Wellington local authorities considering introduction of water charges

The Dominion Post reports that residents in the Wellington region may face water metering and resulting charges for using water. The region's local authorities are considering the change following the recent water infrastructure problems and the cost of remedying them. Read the full story here.

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Building consents reach $23.2 billion in the year to January

Interest.co.nz reports that Statistics NZ figures show the total value of all building work consented in the year to January was $23.2 billion, up 8 per cent on the previous 12 months. 37,606 new dwellings were consented throughout the country, up 12 per cent on the previous 12 months. Read the full story here.

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Kiwi Property receives "standing consent" to buy residential land in Auckland for the construction of dwellings

Stuff reports that Kiwi Property has recently received a "standing consent" from the Overseas Investment Office to buy residential land in Auckland for the construction of dwellings for rental or lease. Kiwi Property is considered under New Zealand law to be overseas owned. Read the full story here.

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Danger posed to ecosystems by wilding pines would cost $100 m to prevent

Radio New Zealand reports that Forest and Bird spokesperson Nicky Snoyink says that it would cost $100 million over four years to stop the spread of wilding pines which, if their present expansion is unchecked, would have serious environmental consequences in several areas in New Zealand, including the Central Plateau, Marlborough high country and the Mackenzie Basin. Read the full story here.

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New mines established on conservation land

Newsroom reports that 21 new mining applications have been approved for works on conservation land over the last two years, despite the Prime Minister's pledge that these would cease. Read the full story here.

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Christchurch hospital construction two years behind building schedule

Radio New Zealand reports that Christchurch's half-billion dollar Hospital Acute Services Building is two years behind its construction completion schedule. Delays have been caused by substandard plumbing work and about 8,000 passive fire protection defects. Read the full story here.

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Overseas Investment Office rejects application for Lake Pukaki development

The Otago Daily Times reports that an overseas investor's bid to build a wedding venue and holiday homes near Lake Pukaki in Canterbury has been turned down by the Overseas Investment Office. The applicant intended to develop an observatory and wedding chapel on the land and subdivide part of the land into residential lots to be sold to third parties. Read the full story here.

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Genetically modified organisms under the spotlight in Northland at Environment Court mediation

The New Zealand Herald reports that an Environment Court mediation is occurring as part of Whangarei and Far North District Councils' joint appeal against Northland Regional Council's July 2019 decision to leave a precautionary approach against the use of GMOs in the region out of Proposed Northland Regional Plan updating. Read the full story here.

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$79 m harbour for Ōpōtiki

The New Zealand Herald reports that Regional Economic Development Minister Shane Jones has announced that Ōpōtiki is getting a new harbour and 1850 new jobs will be created in the eastern Bay of Plenty. It is part of a package of $190 m in spending, as part of the $300 m earmarked for the regions in the Government's $12 billion infrastructure programme. Read the full story here.

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Demolition to start on Dunedin buildings to prepare for $1 billion new hospital build

The Otago Daily Times reports that the Ministry of Health and the Southern DHB have given Ceres New Zealand LLC the contract to demolish Dunedin building blocks including the former Cadbury buildings, in order to prepare for construction of the $1 billion new Dunedin hospital. Read the full story here.

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Reports finds Hauraki Gulf wildlife under threat from commercial fishing

Radio New Zealand reports that an Auckland Council report, "The State of the Gulf 2020", has concluded that fish and birdlife in the Hauraki Gulf Marine Park are under increasing threat from development and commercial fishing. Read the full story here.

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New subdivision proposed in Blenheim

Stuff reports that developers Nikau Drive Ltd have applied for subdivision consent to create 131 residential houses on a 12-hectare block near Blenheim. Read the full story here.

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OMV completes drilling off the Otago coast without commercial-scale discovery

The Otago Daily Times reports that international oil giant OMV has completed drilling off the Otago coast without discovering commercial quantities of oil or gas. OMV Australasia senior

vice-president Gabriel Selischi said preliminary indications from the Great South Basin were that there was not a commercial-scale discovery. Read the full story here.

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Tiny home owner in North Canterbury wins court battle

Stuff reports that Christchurch District Court Judge Mark Callaghan has deemed Alan Dall's tiny home at Amberley Beach as a vehicle and not a building. Hurunui District Council had ordered his tiny home to be demolished or comply with the Building Act. The Ministry of Business, Innovation and Employment had sided with the council.

Read the full story here.

See also https://www.stuff.co.nz/life-style/homed/119637072/movable-vehicle-is-not-a-building-victory-for-tiny-homes-in-landmark-case

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