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Legal Case-notes August 2020

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We would appreciate comments and suggestions from members on content, format or information about cases that might be of interest to members but may have not been reported in "Your Environment".

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Summaries of cases from Thomson Reuter's "Your Environment".

This month we report on six court decisions covering diverse situations associated with subdivision, development and land use activities from around the country;

- A successful application to the Environment Court for priority hearing of appeals against decisions of Hamilton City Council relating to subdivision and development of land at Peacockes Road, Hamilton;
- A successful application for costs against a land owner which had appealed against zoning decisions of the Auckland Council IHP, between Long Bay and Whangaparoa Peninsula;
- A consent order following judicial review of the Auckland Council IHP relating to rules for residential development in the AUP in the Takapuna area;
- An enforcement order relating to unconsented earthworks on one property at Nelson that had resulted in a land-slip affecting a neighbouring property;
- A decision on costs against an appellant and Whangarei District Council on appeals against consent for a company to store relocatable houses on its property;
- The outcome of two appeals against refusal of consent by Hastings District Council for non-complying rural-residential subdivisions at Haumoana;

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CASE NOTES AUGUST 2020:

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Weston Lea Ltd v Hamilton City Council _ [2020] NZEnvC 62

Keywords: appeal procedure

The Court considered an application for urgency regarding the hearing of two appeals against a decision of Hamilton City Council ("the council"). The matter concerned land use and subdivision consent applications relating to the Amberfield residential and commercial development at Peacockes Rd, Hamilton ("Amberfield").

The Court reviewed the background. The council's district plan and long-term plan prioritised the Peacocke Structure Plan Area ("PSPA") for new residential development which was needed for Hamilton. In 2017, the council was granted $290.4 m to develop infrastructure to support residential development within the PSPA. In May 2018, Weston Lea Ltd ("WLL") lodged an application for subdivision and land use consent for the Amberfield development to provide over 800 residential lots within the PSPA. On 1 November 2019, an Independent Hearing Panel granted the application. Appeals were made by WLL and the Director-General of Conservation against conditions. The Covid-19 restrictions were imposed in March 2020 and in April 2020 the Government announced it was seeking "shovel-ready" infrastructure projects to start when the restrictions were eased. In this context, WLL filed the application under s 279(1)(a) of the RMA

seeking urgency. WLL submitted that it was in the public interest to determine the appeals urgently because the implementation of the Amberfield development would help stimulate economic recovery and would support central and local government infrastructure as well as creating jobs.

The Court stated that the application was filed under the 2nd set of Directions and Advisory Notes subsequent to Protocol of 25 March 2020, dated 21 April 2020. The 21 April 2020 Protocol prioritised cases involving infrastructure or other public good that might be considered urgent and in the public interest. These were to be logged with the Principal Environment Judge for prioritisation. Considering that the present appeals involved significant infrastructure, and that the implementation of the Amberfield consents would help stimulate economic recovery from the impact of Covid-19, the Court stated that it was appropriate to give priority to the appeals. The Court was satisfied that they met the criteria contemplated by the Protocols. Accordingly, the application for urgency was granted and the Court directed that the appeals were to be heard as a matter of priority.

Decision date 11 June 2020 Your Environment 12 June 2020

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Okura Holdings Ltd v Auckland Council _ [2020] NZEnvC 53

Keywords: costs; district plan; rural

The Court considered applications for costs against Okura Holdings Ltd ("Okura"), following its decision of 6 June 2018 ("the previous decision") dismissing Okura's appeal against the determination of Auckland Council ("the council") on a submission to the Proposed Auckland Unitary Plan ("the Unitary Plan"). The matter concerned the position of the Rural Urban Boundary ("RUB") near the Okura Estuary, where Okura owned land. Royal Forest and Bird Protection Soc of New Zealand Inc and Long Bay-Okura Great Park Protection Soc (together, "the joint applicants") were submitters in opposition to the appeal and now sought costs against Okura. The council also applied for costs against Okura. Okura opposed the applications.

The Court described the Okura property and its environmental context and reviewed the previous decision. Okura had sought by its appeal to extend the RUB to incorporate its land which would thereby include residential zonings and allow for residential development, subject to a structure plan and a precinct proposal. In the previous decision, the Court concluded that the proposal would not protect marine ecology or avifauna, which was contrary to the objectives and policies of the Unitary Plan, and further that the proposal would have significant adverse effects on natural character and landscape values and that it was inappropriate. Accordingly, the Court found that the RUB should not be extended to incorporate the Okura land.

The joint applicants now sought an award of 30 per cent of their actual costs incurred of $302,043. The joint applicants submitted that: the normal practice regarding costs in planning appeals should not be followed, given the private interests advanced by Okura on appeal; Okura did not acknowledge the very high values of the receiving environment and the proposal's effects on such values; Okura's case was lacking in detail; and the joint applicants represented aspects of the public interest in the appeals. The council sought an award of $199,569 being approximately 25 per cent of its costs incurred in the proceedings. The council also submitted that the normal practice regarding costs in planning appeals should not be followed; that the Okura case was poorly pleaded and lacked merit; and that the litigation history relating to the Okura Estuary had highlighted the significant sensitivity of the environment; and that if costs were not recovered from Okura, the financial burden of the council's participation would fall on the ratepayer.

The Court considered seven issues: principles applying to the discretion of the Court to award costs under s 285 of the RMA; case law and the Environment Court of New Zealand Practice Note 2014; the commercial aspect of Okura's case; the Local Government (Auckland Transitional Provisions) Act 2010 ("LGATPA"); previous case authority; insufficiency of detail; and adverse effects on the environment. The Court stated it was indisputable that the purpose of the appeal was to advance Okura's commercial interests by obtaining a rezoning of its property and enabling urban development on it. The Court was of the view that such a purpose was not of itself a ground supporting a costs award on a public plan change process. However, if in advancing those commercial interests Okura made a case lacking in substance or merit which put other parties to cost, the commercial aspect might be a factor to be weighed in the balance as to the reasonableness of making a costs award. The Court rejected submissions by Okura that there was a presumption against a costs award where the Independent Hearings
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Panel had supported the Okura position, which the council later did not follow. There was nothing in the LGATPA which created any such presumption. The Court reviewed previous relevant decisions concerning the planning provisions relating to the Okura Estuary and the need to protect environmental and landscape values and limit urban development in the area. The Court said that nothing in the Okura evidence in the present proceedings challenged the findings in such decisions. The case presented by Okura was a re-litigation of issues previously considered by the Court. Further, regarding the issue of adverse effects which would result from urbanisation of Okura's property, the joint applicants strongly contended that Okura had advanced argument without substance. The Court in this regard found that the Okura case was not so much poorly pleaded as it was a poor case to be pleaded and substantially lacking in merit.

The Court concluded that when taking into account: the re-litigation of previous proceedings; the insufficiency of detail; and the overwhelming findings as to effects of the proposal on a highly sensitive environment scheduled for protection, it was reasonable that costs awards should be made. Accordingly, Okura was ordered to pay: $91,000 to the joint applicants; and $200,000 to the council.

Decision date 29 May 2020 Your Environment 1 June 2020

(The previous decision was reported in Newslink September 2018)

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Belgiorno-Nettis v Auckland Unitary Plan Independent Hearings Panel _ [2020] NZHC1017

Keywords: High Court; judicial review; district plan proposed; rule; consent order

The High Court considered consent orders filed by the parties. The matter concerned the application by F Belgiorno-Nettis ("B-N") for judicial review of decisions of the Auckland Unitary Plan Independent Hearings Panel ("IHP"), respectively dated 14 and 19 October 2019 ("the decisions"). B-N had partly succeeded in the Court of Appeal in proceedings by which he sought to prevent intensive developments at specified Takapuna locations ("the Blocks"). The Court of Appeal found that the IHP had not complied with the duty to give reasons when it rejected B-N's submissions on the Proposed Auckland Unitary Plan in respect of the Blocks. The IHP was then directed by the Court of Appeal to give reasons, which it did in the decisions. In addition to his application for judicial review of the decisions, B-N also sought interim relief. First, he sought to prevent Auckland Council from notifying as operative the height and zoning provisions in the AUP regarding the Blocks. The council consented to that order. Second, he sought an order to prevent the council from treating the affected AUP rules as operative, pending the hearing of his claims. The council argued it could not comply with such an order because of the provisions of s 86F of the RMA.

It was because of the effect of s 86F of the RMA that the present consent orders were discussed by the parties and agreed as an alternative approach. The Court now stated it was content to make the orders sought because: B-N's claims raised serious issues to be tried; it was not necessary to make orders directly affecting the operation of s 86F in order to preserve B-N's position pending the hearing of his claims; the orders sought enabled the ordinary operation of s 86F and the AUP rules up until the making of a substantive decision; the proposed orders were tailored to allow the processing of any consent applications which would not be inconsistent with the relief sought by B-N; and, taken together, the orders represented a proper balance between the policy of the Local Government (Auckland Transitional Provisions) Act 2010 to enable the promulgation of the AUP and the right of the public to rely on the operative provisions, and B-N's right to his day in Court. Accordingly, the Court made the orders as set out in Schedule A to the present decision. Costs were to lie where they fell.

Decision date 4 June 2020 Your Environment 8 June 2020

(The previous decision was reported in Newslink July 2019.)

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Smith v Young _ [2020] NZEnvC 61

Keywords: enforcement order interim; earthworks

The Court considered an application for an enforcement order relating to a landslip on two residential properties in Atawhai, a suburb of Nelson. The applicants, E and M Smith ("S") lived at 31 Farleigh St; the respondents K and G Young ("Y") lived at 13 Farleigh St. The matter arose in 2016 when Y dug out the toe of the slope between his property and S's property with

the purpose of building a garage. The works were done without resource consent, and breached the RMA. Subsequently Nelson City Council ("the council") granted retrospective resource consent to remediate the slip. After this the council granted a non-notified variation to that consent. In 2018, on the application by S, the Court made an interim enforcement order, which essentially required Y to keep monitoring pins in place and to continue monitoring the slope in accordance with the consent conditions.

The Court outlined events which occurred between the 2018 enforcement order and the present, which included mediation, expert conferencing, further mediation and the exchange of memoranda, towards reaching resolution and agreement as to works needed and the terms of an enforcement order. The Court considered submissions from Y, S and the council on the remaining issue which was the completion date for the interim works required. The statutory framework, under ss 314-320 of the RMA, was addressed by the Court which noted that the present application sought two classes of order under s 314: one requiring compliance with conditions of the resource consent; and one requiring Y to remedy or mitigate effects caused as a result of the earthworks. The Court stated that the critical environmental effects were the potential for the slip to be aggravated during the coming winter months. This was in the context of the delays which had already occurred. The Court found that an interim order should be made largely on the terms substantially agreed by the parties. What was in contention was whether such an order should specify a completion date. The Court found that damage caused to S's land was itself a significant adverse effect risk that warranted a response including the interim order. Accordingly, the Court made the order set out in the Annexure to the present decision. The 2018 interim order was cancelled. Costs were reserved.

Decision date 10 June 2020 Your Environment 11 June 2020

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Haines House Haulage Northland Ltd v Whangarei District Council _ [2020] NZHC 1122

Keywords: High Court; costs

Haines House Haulage Northland Ltd ("HHH") applied for costs following the High Court's decision in HHH's favour of 17 March 2020 on an appeal against a decision of the Environment Court ("the EC"). The matter concerned the refusal by Whangarei District Council ("the council") of land use consent to store relocatable houses on a site north of Whangarei. The High Court found that the EC made a number of errors of law. HHH now claimed costs, on a 2B basis, of $15,296 and disbursements of $1,981 against Mrs Waldron ("W"), who had opposed consent and opposed HHH's appeal, and the council.

The Court considered the principles relevant to the award of costs and the High Court Rules 2016 ("the Rules"). Regarding W, The Court noted that she had chosen to argue that the EC had not made errors of law and had lost the appeal. She had chosen to advance an interpretation of "site" which was not accepted and HHH was required to address this in submissions. There was no reason why a costs order should be refused against her or the quantum reduced.

Regarding the co-liability of the council for costs, the Court considered r 14.14 of the Rules and case authority. The Court of Appeal had established that a defendant joined in a proceeding had three options: to defend; to abide; or to admit the cause. Each option had different costs consequences. The Court had to consider, where there was more than one defendant, how costs should be allocated between them. In the present case, the Court considered that liability should not be joint and several but that it was just for the council to bear a share of W's costs. This was because the council did more than simply abide the Court's decision and made written submissions opposing HHH's interpretation of the district plan. However, it was not the errors of the council which required the proceedings; it had originally supported the grant of consent. The Court concluded that a contribution of 20 per cent by the council was appropriate. Accordingly, HHH was awarded costs: by W to the sum of $13,821; and by the council to the sum of $3,455.

Decision date 16 June 2020 Your Environment 11 June 2020

(The previous decision was reported in Newslink October 2019)

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Endsleigh Cottages Ltd v Hastings District Council _ [2020] NZEnvC 64

Keywords: resource consent; subdivision; rural residential; district plan; soil high value; precedent

This decision involved two appeals arising from separate applications for subdivision consent. The first appeal, by AL and JH Maurenbrecher ("M") and D and H Evans ("E"), related to properties at 52 and 80 Raymond Rd, Haumoana and sought to create 12 rural lifestyle lots. The second appeal, by Endsleigh Cottages Ltd related to land at 42 Raymond Rd and sought to create four residential lifestyle lots plus one productive orchard lot. Following mediation, the proposal by M and E was reduced to a total of six lots. Consents were required because under the Proposed Hastings District Plan ("the PP") the properties were zoned Plains Production. Under the relevant rules, certain subdivisions were provided for, with a minimum net site size, with "lifestyle subdivision" allowed under certain circumstances, with a minimum site size of 2,500 square metres. The present applications did not comply with the rules. In the PP, "lifestyle site" was defined as a site created and used for rural residential living in the Plains and Rural zones

The Court considered the properties and the statutory considerations. As the properties were zoned Plains Production (PPZ), the proposals were non-complying activities in the PPZ and so the proposals were to be assessed under ss 104D and 104(1) of the RMA. The Court stated that the issues to be decided were: whether the proposals were contrary to the objectives and policies of the PP and the overall strategy of the Hawkes Bay Regional Policy Statement ("the RPS") and the PP regarding lifestyle subdivision, and in particular whether the properties were "versatile land"; whether to allow the appeals would challenge the integrity of the PP; and whether the National Policy Statement – Urban Development Capacity ("NPSUDC") was relevant.

First, regarding the issue of versatile land and the retention of the productive potential of the plains environment, the Court noted that the appellants' case was largely based on their assertion that as their land did not comprise Land Use Class 1, 2 or 3 soils, it did not come within the PP definition of versatile land. The Court stated that the definition of versatile land was an inclusive one. After considering extensive expert evidence on the characteristics of the soil on the appellants' land, the Court was of the opinion that the percentage of Class 1-3 soils was not determinative of whether land was "versatile". The Court did however accept that there were limitations to horticultural productivity on the appellants' lands due to poor soil drainage. The Court found that these limitations could be rectified by using established commercially viable management techniques, so enabling the lands to be managed as productive land.

The Court reviewed the relevant provisions of the NPSUDC, the regional plan and the PP, and submissions on these, and concluded that there were two themes underlying the objectives and policies of the statutory instruments: to establish and maintain a compact urban form and to protect versatile land. The Rural Resource Strategy sought to sustain the life supporting capacity of the district's rural resources and to retain the land-based productive potential of the Plains environment. The planning documents all recognised the tension between providing for future urban growth and the need to protect versatile soils. The Court found that the present proposals struck at the very essence of specified provisions intended to protect versatile land and were contrary to them. The proposals were also contrary to the RPS objectives and policies.

Turning to address the issue of plan integrity and precedent, the Court noted that the appellants submitted that their proposals were not ad hoc and would not affect the PP's integrity. The council expressed concerns that to allow the appeals would create a precedent, undermine public confidence and also pre-empt future planning of the area. The Court reviewed relevant case authority on these issues, and in particular the provisions of the Heretaunga Plains Urban Development Strategy 2017. The Court stated that the latter, non-statutory, document merely identified that coastal development might be possible in certain areas. In addition, the Court accepted evidence that there was sufficient rural residential or lifestyle housing choice available. The soil characteristics or the underlying duripan were not unique to the appellants' properties. The Court considered that to grant consent to the present proposals could raise expectations of further subdivision and challenge plan integrity.

The NPSUDC provisions, which came into effect in 2016, were considered. The Court stated that it was relevant to planning for urban environments and concluded that it was not relevant to the determination of the present appeals. Regarding whether recourse was necessary to pt 2 of the RMA, the Court concluded that the PP provisions were coherent and gave effect to the RPS. The proposals were contrary to the PP, although it was accepted that the adverse effects were no more than minor. Reference to pt 2 would not be necessary. The Court determined that it was not appropriate to grant consent to the proposals. The appeals were dismissed. Costs were reserved.

Decision date 17 June 2020 Your Environment 18 June 2020

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Aokautere Land Holdings Ltd v Palmerston North City Council _ [2020] NZHC 873

Keywords: High Court; injunction interim; requirement; designation; road; compulsory acquisition; public notification; service of documents

Aokautere Land Holdings Ltd ("Aokautere") applied for interim injunctive relief, restraining Palmerston North City Council ("the council") from taking any further steps regarding the notice of requirement ("NOR") for a new designation. Aokautere was a property developer with a registered office in Palmerston North and had applied for resource consent to subdivide certain land it owned into six residential lots. The designation related to the council's proposal to develop a road between Abby Rd and Johnston Drive ("the road") which would run through Aokautere's land, the subject of the subdivision application. The council, as the requiring authority, under s 168 and 168A of the RMA, requested public notification of the decision to grant requirement of the site for the road ("the notice"). The notice was sent to Aokautere at its rating address. Aokautere challenged the validity of the service of the notice and claimed that its contents contained errors in the description of land titles. Since filing the interim injunction, Aokautere's subdivision consent had been declined by the council.

The High Court considered the principles relevant to the threshold test for the grant of an interim injunction. First there must be a serious question to be tried. Second, was where the balance of convenience lay. The third was the overall justice of the position. Regarding the first test, the Court noted that Aokautere sought a declaration that the notice was invalid and that all designation proceedings arising should stop. The grounds were: that the description of the "site" at which the road was to be placed had been wrongly described; and the council purported to serve the notice on a private residence, where rate demands were sent, and not Aokautere's registered office. The Court considered the notice and upheld the council's submission that the notice made it clear which land was in question, by description and by photographs, and there was no material risk that submitters were misled by the accepted title misdescriptions. Further, the Court did not think there had been any procedural unfairness of any substance. Regarding service of the notice, the Court did not find that service to the ratings address rather than the registered office was a substantial procedural defect. Aokautere had received the notice and had made submissions to it. The Court then considered s 296 of the RMA, which provided that where there was a right of appeal or inquiry to the Environment Court, injunctive relief was barred. In the present case, the Court said that the procedural defect challenges by Aokautere could be heard by the Commissioner appointed for the purpose of determining the NOR under s 168A of the RMA. The Court did not now uphold the submission that there was a serious question to be tried.

Secondly, the Court said it was plain that the balance of convenience favoured the council. The hearing under s 168A of the RMA should proceed before the Commissioner who should determine whether the notice was invalid. Finally, the Court was satisfied that the overall justice of the case did not require injunctive relief to be granted. The processes under the RMA should be conducted as the RMA provided before the Commissioner without further delay. The threshold tests for interim relief having not been passed, the application was dismissed. Directions were made as to costs.

Decision date 25 June 2020 Your Environment 28 June 2020

(See also decision [2020] NZHC 11110 issued 25 May 2020)

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Northlake Investments Ltd v Otago Regional Council _ [2020] NZHC 1144

Keywords: High Court; prosecution; subdivision; residential

Northlake Investments Ltd ("Northlake") appealed to the High Court against its conviction, and sentence, in the District Court's decisions of 21 June 2019 and 3 September 2019 respectively. Northlake was a property development company undertaking a residential subdivision near Wanaka when heavy rainfall on two occasions carried sediment from the earthworks into the Clutha River. Northlake appealed its conviction on the ground that the Judge erred by finding it failed to take the necessary reasonable precautions to prevent the discharge. The sentence, a fine of $42,500, was appealed on the ground of disparity with the sentence imposed on its contractor Civil Construction Ltd ("CCL").

The Court reviewed the case and the relevant statutory provisions. Northlake was charged under s 15(1)(b) of the RMA. In the sentencing decision, Northlake contended it should have been charged as a principal under s 340 of the Act. However, the Judge decided Northlake should be charged in its own right, under s 338, on the basis that it was the developer and had ultimate responsibility. Northlake now submitted that its liability was vicarious and it had not contributed to the physical events. The High Court said the formulation of the charge had little bearing on the appeal's outcome because at trial Northlake ran the defence that it took all reasonable care. Further, the provisions of ss 340 and 341 of the RMA meant that no miscarriage of justice arose from the fact that Northlake was treated as though it "personally committed" the offence of the discharge into the Clutha. The appeal turned rather on the Judge's evaluation of the evidence regarding the steps Northlake took to prevent a discharge and the sufficiency of such steps. The Judge placed considerable focus on the requirement to minimise open areas on the earthworks and to revegetate the site. The Court conceded that on a strict construction of the resource consent and the site management plan ("SMP") regarding "open land" it was arguable that land covered in topsoil was "open". However, irrespective of this issue, the Judge said that Northlake had been put on notice of the inadequacy of the SMP by the successive heavy rainfall events. Section 15 of the RMA was an independent obligation on a developer, over and above and rules provided by a resource consent, not to discharge sediment into water. It was open to the Judge to conclude the SMP was inadequate and that Northlake failed to take all reasonable steps to prevent the discharge. It was Northlake's failure to insist on a stronger sediment control system that prevented it now from proving that a miscarriage of justice had occurred.

Regarding the sentence appeal, Northlake submitted that its starting point should not have been higher than that of CCL. However, the Court said this was premised on the assumption that Northlake was only vicariously liable for the discharge. It was appropriate for the Judge to proceed on the basis that Northlake was a primary offender. The fine was not manifestly excessive. Accordingly, the appeals against conviction and sentence were dismissed.

Decision date 24 June 2020 Your Environment 25 June 2020

(The previous decisions were reported in Newslink August 2019 and February 2020.)

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This month's cases were selected by Roger Low, rlow@lowcom.co.nz, and Hazim Ali, hazim.ali@aucklandcouncil.govt.nz.

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Other News Items for August 2020

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Unit Titles (Strengthening Body Corporate Governance and Other Matters) Amendment Bill (2020 306-1) Introduced 02/07/2020.

This bill is a response to a recent examination of the *Unit Titles Act 2010* and includes amendments to improve the information disclosure regime to prospective buyers of units, to strengthen the governance arrangements in relation to the body corporate, to increase the professionalism and standards of body corporate managers, and to ensure that planning and funding of long-term maintenance projects is adequate.

- Bill Copy

- Bill Progress
- Explanatory Memorandum

Alert24 Legislation Tracking Key

(Legislation Sources: New Zealand Parliament and New Zealand Parliamentary Counsel Office)

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Shut gate means diversion for hikers. *Northland Age* reports that hikers on the national walking trail, Te Araroa, have been diverted on to a busy stretch of road between Matapouri and Ngunguru, after a private land owner shut them out. The 10km stretch of road has no footpath, minimal shoulder and many blind corners, meaning an alternative route to the previously-sed private land must be found. The private land's owner has shut hikers out due to her concerns that they do not stick to the marked trail and thus spread weeds through areas she is trying to regenerate with native forest. Read the full story here.

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Landlord ordered to pay for distress caused. *Stuff* reports that an Auckland landlord has been ordered by the Tenancy Tribunal to pay a former tenant $500 after displaying her personal possessions in online advertisements. The tenant has given permission, when the apartment she rented was put up for sale, to take photos, but thought they would just be of the balcony and "unique features" of the apartment, which included kitchen fixtures and fittings. Tribunal adjudicator Hannah Cheeseman said the tenant had a strong expectation of privacy inside her home and ordered the landlord to pay accordingly. Read the full story here.

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$16m more from council for Invercargill CBD development. The *Otago Daily Times* reports that Invercargill City Council has voted to provide a further $16 million towards the Invercargill City Block development, following the withdrawal of an investor in the project. Read the full story here.

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Tomato spider mite pest found in NZ for first time. *Radio New Zealand* reports that Biosecurity New Zealand has found two infestations of the tomato red spider mite (Tetranychus evansi) near Auckland Airport and in Pakuranga. The pest attacks not only tomatoes but also beans, egg-plants, kumara and some flowers. Tomatoes New Zealand is working with authorities to respond to the incursion. Read the full story here.

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Two abandoned Kilbirnie apartment buildings to be demolished. *The Dominion Post* reports that New Zealand Transport Agency says that two empty apartment blocks in Wellington Rd, Kilbirnie have to be demolished because they pose a seismic risk. They were orginally purchased by NZTA for road widening purposes, but that roading work has been delayed. Read the full story here.

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NZ Post to build new $170m depot in Wellington. *Radio New Zealand* reports that NZ Post is building a new $170 million parcel depot to cater for the predicted growth in online shopping by New Zealanders. Associate Minister for State Owned Enterprises Shane Jones says the new high-tech depot will mean NZ Post will be able to process parcels faster. Read the full story here.

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NSW water supply in crisis. *The Sydney Morning Herald* reports that a report by the Auditor-General says that Greater Sydney will have difficulty meeting the future demand for water in times of drought and population increase. The report is critical of Sydney Water and the Department of Planning, Industry and Environment which are said to have failed to meet the requirements of the 2017 metropolitan water plan and have not implemented water conservation measures. Read the full story here.

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Decision on Auckland light rail deferred until after election. *Radio New Zealand* reports that Transport Minister Phil Twyford has said that no decision will be made concerning the

Auckland light rail infrastructure project until after the general election in September. Auckland mayor Phil Goff has expressed disappointment at the further delay. Read the full story here.

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Council bringing back development contributions. NZ Herald reports that the Hauraki District Council have voted to bring back development contributions, having scrapped them in 2015. The area has continued to grow over the past five years, which is what prompted the council to reconsider the contributions. Developers pay these contributions to help fund infrastructure projects, such as sewerage, water treatment and so on, that is needed by their developments. "If we have a development contributions policy in place the people who are doing the developing, such as subdividing land, and cause the need for more infrastructure will contribute towards the cost of it," said Mayor Toby Adams. Read the full story here.

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Council scraps consent fee to encourage water saving. *Stuff* reports that Auckland Council have dropped requirement to pay for consent to install a rainwater tank at a residential property, to encourage residents to save and use the water they get running off their roofs throughout winter. The fee previously payable ranged from $600 to $5000, depending on the complexity of the tank system. Read the full story here.

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Southern Alps lose 30 per cent of ice over last 40 years. The *Otago Daily Times* reports that Niwa climate scientist Dr Andrew Lorrey has found that 30 per cent of the Southern Alps' ice volume has been lost over the past four decades and that one glacier, Brewster Glacier, has lost about 13 million cubic metres of ice over the last three years. Dr Lorrey said that such damage to small glaciers puts them "on a path to extinction". Read the full story here.

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Cost of seismic strengthening worries Wellington apartment owners. *Radio New Zealand* reports that owners of apartments in Wellington have asked a Parliament select committee for help with the financial burden of quake-strengthening their apartment buildings. Read the full story here.

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Cadbury factory facades to cost up to $74 million to preserve. The *Otago Daily Times* reports that the Ministry of Health's consent application to demolish most of the former Cadbury factory in Dunedin contains estimates of the cost of preserving the building's facades which range from $32 and $74 million. The complex is rated a Category 2 Historic Place. Read the full story here.

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Ecotourism recovery on Otago Peninsula with help of Royal Albatross colony. The *Otago Daily Times* reports that foreign media coverage of the Royal Albatross colony is valued at $17 million. This is expected to help the recovery of Otago Peninsula's ecotourism. Read the full story here.

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Proposal to convert Southland's Glenaray Station to conservation land. The *Otago Daily Times* reports that the Commissioner of Crown Lands, Craig Harris, says that most submissions on the tenure review into Glenaray Station were in favour of a proposal to convert 38,000 hectares of the station, which is habitat to 60 threatened species and 15 rare plants, to public conservation land, with access to the public. Read the full story here.

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$18m from Provincial Growth Fund for West Coast visitor hubs. *Radio New Zealand* reports that construction of four West Coast visitor hubs will start this year. The hubs will be at Haast, Hokitika, Greymouth and Westport and will cost in total almost $18 million, provided by the Provincial Growth Fund. Read the full story here.

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Council launches scheme to protect and improve flora and fauna. *Voxy* reports that Hutt City Council has launched a grant scheme allowing private owners access to funding to protect and improve native plant and animal habitats on privately-owned land. There are two types of
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grants available. Tier One grants of up to $1000 in value will provide materials, labour or expertise for projects such as weed and pest control. Tier Two grants of up to $20,000 are for larger scale, higher impact projects, and applications will need to have an accompanying management plan. Read the full story here.

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Public access to iconic beach preserved. *Northern Advocate* reports that the Ipipiri Nature Conservancy Trust has, with help of local government bodies and the community, raised the $8 million necessary to purchase a 710 hectare farm property surrounding Elliot Bay east of Russell. The property, owned by the Elliot family, but open to public for access to the beach since the 1930s, was for sale as the owners looked to retire, which meant it risked falling into the hands of property developers, to develop high-end holiday homes. The property purchase now extends the public access to two beaches as well as opening up the possibly of linking two Northland walks to create a multi-day hike. Read the full story here.

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Loss of more than 1 million square kilometres of sea ice over five years in Antarctica. *Radio New Zealand* reports that an international research study, published in *Geophysical Research Letters*, has found that a measured reduction of over one million square kilometres of sea ice in Antarctica over the last five years will have impacts on the marine ecosystem, including the loss of krill and those creatures which depend on it for food. Read the full story here.

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Fast-track for 11 infrastructure projects. *Radio New Zealand* reports that the COVID-19 Recovery (Fast-track) Bill will be introduced to Parliament and will fast-track 11 named infrastructure projects in housing, environment and transport. The Bill also opens the way for other projects to be fast-tracked to help deliver faster economic growth. Read the full story here.

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Dunedin central bypass proposed. The *Otago Daily Times* reports that one option for the revamp of Dunedin's central city street system may involve a new bypass. The New Zealand Transport Authority has asked for feedback on which proposal, the central bypass or keeping the one-way state highways through the CBD, people would prefer. Read the full story here.

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Timaru Hospital upgrade begins. The *Timaru Herald* reports that the redevelopment of the front of Timaru Hospital, which will include a new main entrance, an atrium and a cafe, is under constuction. The project is estimated to cost $3.4 milliion and will take 13 months to complete. Read the full story here.

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Wellington Airport's billion dollar expansion deferred. *Radio New Zealand* reports that Wellington Airport has decided to delay its plans for a new terminal and other infrastructure, including a runway extension, because of the over 90 per cent drop in passenger numbers since the Covid-19 emergency. Read the full story here.

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300 tonnes of recycled plastics to be placed in landfill. The *Taranaki Daily News* reports that New Plymouth District Council will have to pay $30,000 to put a stockpile of recycled mixed plastic in a landfill because there is no means of processing it in this country. Read the full story here.

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Encroachers to get their marching orders. *Taranaki Daily News* reports that hundreds of New Plymouth landowners encroaching on public land may soon be pulled up by the local authority. New Plymouth District Council said encroaching property boundaries were a common problem in the district with council aware of 600 examples. The council have hired an extra staff member to deal with the problem. Encroachments occur on the boundary between public and private property when residents "extend" their boundary to include public land. Read the full story here.

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Easement muddies waters for small golf club. *Otago Daily Times* reports that the Otematata Golf Club owes the Waitaki District Council more than $5000, for the replacement of power poles related to a wastewater treatment plant, which in turn allowed the club to irrigate their greens. An easement in the land is causing confusion and headaches regarding payment, as appears to be owned partly by the council, party by Land Information NZ and partially privately by Meridian. Read the full story here.

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Residents vow to fight council to protect land. *Northern Advocate* reports that residents in Opua have vowed to fight a plan to build 17 houses on land they want protected for a public park. The Far North District Council have won consent for a housing development to be built on a 3 hectare site which Save Opua's Soul (community group) maintains is one of the last remaining flat pieces of unused land in the Bay of Islands settlement. It was once the pa site for Ngati Roroa and has a rich history. Read the full story here.

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Vineyard property survives while erstwhile owner subsides. *Stuff* reports that erstwhile owner of Mahana Estates, vineyard and associated property, Glenn Schaeffer, has lost his appeal against High Court decision that he was obliged to pay several million to misled business associates. It is a sad end to a drawn-out saga. The properties however will survive to see many a day more - the major assets, including 21 hectare vineyard, cellar door and restaurant, and a separate nine hectare organic vineyard have sold and continue to thrive, producing quality pinot noir and sauvingnon blanc. Read the full story here.

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Helping families reunite and supporting economic recovery with border exceptions.

Economic Development Minister Phil Twyford and Immigration Minister Iain Lees-Galloway have announced that the Government is taking the next steps to safely help reunite New Zealand families, and support economic recovery without increasing the risk of COVID-19. Key changes include:

- Removing the need for partners and dependants of NZ citizens and residents to travel together to return home when they have a relationship-based visa or are ordinarily resident in New Zealand
- Allowing entry of maritime vessels where there is a compelling need
- Allowing entry for diplomats taking up new posts
- Introducing short term and long term criteria for Other Essential Workers requests

"We are removing the requirement for partners and dependants of New Zealand citizens and residents who have a relationship-based visa or are ordinarily resident in New Zealand to travel together to be granted an entry exception. This will be a great relief for families separated by the border closure.

"The bar for being granted an exception to the border restrictions is set high, and remains high, to help stop the spread of COVID-19 and protect the health of people already in New Zealand. Everyone coming in will still need to do 14 days of managed isolation or quarantine so we are working within our current capacity of 3200 for the facilities run by the Ministry of Health," said Iain Lees-Galloway.

Phil Twyford said as part of the Government's new long-term border management, Immigration NZ is strengthening its processes and criteria for employers who need workers for significant economic activities, to stop key projects being delayed or avoid negative impacts on the wider economy.

The Government has granted border exemptions to two syndicate teams who will challenge Emirates Team New Zealand for the 36th America's Cup, Phil Twyford said. The 36th America's Cup is expected to create massive economic spin-off for New Zealand. The series of events will conclude with the final match for the America's Cup being held in Auckland in March 2021.

The America's Cup teams across all international syndicates are estimated to contribute over $100 million into the economy during their time in New Zealand.

To streamline the process, decisions on Other Essential Workers requests under the new criteria will be made by Immigration NZ. We are introducing two distinct criteria depending on whether the work is short or long term.

Phil Twyford said the threshold for entry for Other Essential Workers remains very high. "Businesses should ensure no alternative options are available before applying."

Other changes include:

- A new maritime exception will allow entry to those arriving at the maritime border, where there is a compelling need for the vessel to travel to New Zealand. Border restrictions will also not apply to replacement cargo ship crew arriving in New Zealand by air and transferring straight to a cargo ship to leave New Zealand. This will help keep our shipping routes open. Most maritime journeys to New Zealand take more than 14 days, so crew and others will self-isolate on route, and won't impact New Zealand's quarantine capacity.
- The diplomatic exception, which allows re-entry to those who normally live here, is being expanded to include diplomats taking up new posts in New Zealand.

Officials are working to implement these changes as quickly as possible and we expect the changes to partners, other essential workers and diplomats will be in effect by the end of next week, with the maritime changes in place later in June.

Iain Lees-Galloway said the Government will continue to review the way we manage our border as New Zealand recovers from COVID-19.

"We are working on a longer-term border strategy and we are exploring how we can create an isolation system that could support further opening of New Zealand's borders, for example for current holders of temporary work visas and international students, while continuing to effectively manage health risks from overseas arrivals," said Iain Lees-Galloway.

Notes:

An 'Other Essential Worker' is someone who an employer can demonstrate meets the following criteria:

For a short-term role (less than six months):

- The worker must have unique experience and technical or specialist skills that are not obtainable in New Zealand, or
- The work must be significant in terms of a major infrastructure project, or event of national or regional importance, or government approved programme, or in support of a government-to-government agreement, or have significant benefit to the national or regional economy, AND
- The role must be time critical (eg if the person does not come to New Zealand, the project, work or event will cease or be severely compromised, or significant costs will be incurred).

For a longer-term role (more than six months), the worker must:

- meet one of the short-term criteria AND
- earn twice the median salary (as an indicator of high skills), or
- have a role that is essential for the completion or continuation of science programmes under a government funded or partially government-funded contract, including research and development exchanges and partnerships.
- have a role that is essential for the delivery or execution of a government approved event, or programme that is of major significance to New Zealand.

Any employers granted an exception to bring in workers on these grounds must fund their managed isolation, and will need to work with the Ministry of Health to book spaces in managed isolation or quarantine. In some cases, such as with larger groups, they may need to work with Ministry of Health to develop an alternative managed isolation plan. Visa requirements still apply.

The accommodation supply is determined by the health requirements for facilities and the support required to manage them. The wraparound support services are provided by government agencies, for example, the New Zealand Defence Force, Aviation Security,

Customs, and there is currently no mechanism for the costs of these services to be charged back to foreign nationals.
- Please click on the link below for full statement: Media Release

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Fewer people to face end of year tax bills.

Revenue Minister Stuart Nash has announced that the Government is moving to ease financial stress for around 149,000 taxpayers by changing the rules around write-offs for tax debt.

"Fewer people will have tax bills to pay this year," said Stuart Nash.

"Inland Revenue's end of year automatic income tax calculation process for individuals is currently underway and is expected to run until early July. It is the annual wash up which results in people either having tax to pay or receiving a refund.

"For the 2019/20 income tax year, tax payable up to $200 will be written off. The usual threshold for writing off tax is $50.

"Increasing the write-off threshold will reduce tax bills for approximately 149,000 taxpayers. Writing off those amounts of tax may not seem huge to everyone, but it can be significant for someone experiencing financial stress.

"In the 2018/19 year for example, around half of those who had a tax bill up to $200 were earning less than $60,000 a year. We're doing everything we can to help households as we move into the economic recovery phase.

"The auto-calc process has meant that people have already started receiving refunds. As at 10 June, there have been 2.3 million assessments carried out resulting in $586 million in tax refunds and $118 million in tax bills to pay.

"Once the process is complete, Inland Revenue expects to issue refunds in excess of $650 million as part of individual income tax assessment process.

"This change was agreed last week but legislation is still required to amend the returns for the 2019/20 tax year. For following tax years, the threshold will revert to the $50 limit," Mr Nash said.

The auto-calc process applies to people whose income is only salary, wages, interest or dividends, not those who use the IR 3 tax return.

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

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Digital trade agreement timely response to COVID-19.

Trade and Export Growth Minister David Parker has announced that New Zealand on Friday 12 June signed the first trade agreement to focus on issues solely relating to the digital economy.

David Parker said the signing of the Digital Economy Partnership Agreement with Chile and Singapore was timely, given COVID-19's impact on how international trade is conducted.

The agreement was signed at an online ceremony, using e-signatures.

"This was another first for New Zealand and was an appropriate symbol of what we are agreeing today," said David Parker.

"We've moved quickly since launching negotiations in May 2019 to bring this agreement to conclusion because we recognise international trade rules have not kept up with the unprecedented growth of digital trade. We believe small countries - not just large ones - should help shape the new rules," David Parker said.

The agreement covers business and trade facilitation measures, such as setting up faster customs procedures and supporting e-payments, and issues of consumer trust.

It will promote online consumer protection and address emerging trends and technologies, such as financial technology and digital identities.

The DEPA also promotes "digital inclusion", extending the benefits of the digital economy to all people and businesses.

Consistent with our support for multilateral rules, the DEPA is an "open plurilateral' agreement, meaning it is open to other WTO members to join if they meet its high quality standards.

Negotiations were substantively concluded in January. Since then, the agreement has been legally verified and prepared for the Parliamentary Treaty Examination process.

The Ministry of Foreign Affairs and Trade has released the legally verified text of the DEPA, and a National Interest Analysis. It assesses the likely costs and benefits for New Zealand of entering into the DEPA, and will be presented to the House shortly.

These documents and information on the DEPA are available here:
Please click on the link for full statement: Media Release.

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