~~~~~~

Legal Case-notes July 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>

~~~~~~

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 decision of the Environment Court issuing a declaration sought by the neighbour of a proposed development site near Wanaka. The owner whose consent had been refused, had obtained certificates of compliance for preparatory works for the development;
- This was the final decision of the Environment Court concerning the provisions of the proposed Bay of Plenty Regional Coastal Environment Plan in the vicinity of Motiti Island;
- The prosecution by CRC of the owner of a rural property near Orari, South Canterbury for undertaking excessive works near a wetland and stream;
- Another prosecution by CRC of a mining company for discharging sediment-laden stormwater into a stream;
- Resolution of an appeal against the grant of consent by QLDC to a subdivision and residential development at Mount Dewar near Queenstown;
- The decision on an appeal by Tauranga Environmental Protection Society Inc of decisions by Tauranga City Council and the Bay of Plenty Regional Council to grant land use consents and coastal permits to Transpower to realign an existing electricity transmission line in the Mount Maunganui area.

~~~~~~

Log-in and download these summaries, earlier case summaries and other news items at:
https://www.surveyors.org.nz/Article?Action=View&Article_id=23

CASE NOTES July 2020:

~~~~~~

Just One Life Ltd v Queenstown Lakes District Council _ [2020] NZEnvC 45

Keywords: declaration; existing use; certificate of compliance

In this interim decision, The Court considered the application by Just One Life Ltd ("JOLL") for six declarations relating to works proposed to be undertaken at Paddock Bay Farm ("the site") on the shores of Lake Wanaka, which was owned by Après Demain Ltd ("ADL"). JOLL owned land adjacent to the site and its director and sole shareholder, J May lived on the JOLL land. In August 2018, ADL applied for resource consent for a residential development on the site and, when consent was declined, lodged an appeal. While its appeal remained alive, ADL asked Queenstown Lakes District Council ("the council") to issue two certificates of compliance ("CoCs"), under s 139 of the RMA, specifying that the earthworks proposed on the site would be undertaken in two consecutive 12-month periods. The council issued the CoCs on 2 April 2019. In June 2019 ADL withdrew its appeal and in September 2019 ADL surrendered the resource consent entirely. The declarations now sought by JOLL were to the effect that: the CoCs for earthworks at the site were unlawfully issued; that no earthworks purportedly authorised by the

CoCs formed part of the “environment” for the purposes of considering any resource consent application; and any existing use rights held by ADL had expired.

The Court stated that the case raised novel questions as to the proper interpretation of s 139 of the RMA. The parties had now agreed that the CoCs were nugatory, the time limits in them having expired. However, the parties asked the Court to provide guidance on the remaining live legal issues raised. The Court accordingly took a staged approach: the present interim decision set out why the first five declarations would be declined; and the second decision, to be issued in due course, would relate to Declaration 6, concerning existing use rights.

The Court considered the statutory framework, including ss 310-313 of the RMA, together with relevant case authority governing the discretion to make a declaration. The Court accepted as unquestionably correct the parties’ conclusion that the CoCs were now nugatory. Section 139 was precise about what was authorised by a CoC because it served as a form of authority for activities under the Act and was treated as an appropriate resource consent. The timing and sequencing restraints in the present CoCs set limits on what was authorised as to the earthworks. The fact that they were now nugatory meant there was no value in a declaration as to the effect of any activity which was proposed. The Court made some observations as to the interpretation of the operative district plan (“the plan”) and s 139 of the RMA. In the present case certain rules as to activity status in the plan came into legal effect after the CoC request was made. The Court noted case authority on s 139 which treated the date a CoC was requested as the critical date in crystallising the application plan rules for certification purposes. However, such authority pre-dated the RMA amendment in 2009, which the Court said largely rewrote s 139. Of particular relevance was s 139(8) which prohibited the issue of a CoC if it was requested after a proposed plan was notified and the activity would not be lawful without a resource consent under the proposed plan. In the present case, the CoCs requested earthworks significantly in excess of new volumetric limits in the new rules in the plan. JOLL argued that this provision precluded the issue of the CoCs. The Court noted that this interpretive issue was now otiose and declined to make findings, other than to state that the history of the changes made to s 139 by the 2009 amendment did not reveal any intention to change how that section applied. The application for declarations 1-5 was declined. Determination of declaration 6 was reserved. Costs were reserved but not encouraged.

Decision date 19 May 2020 - Your Environment 20 May 2020.

~~~~~~

Motiti Rohe Moana Trust v Bay of Plenty Regional Council _ [2020] NZEnvC 50

***Keywords**: regional plan; coastal marine area; New Zealand coastal policy statement jurisdiction; cultural values*

This was the final decision of the Court and followed the interim decision of 11 May 2018 (“the interim decision”). The matter concerned the provisions of the proposed Bay of Plenty Regional Coastal Environment Plan (“PRCEP”). At issue was the lawfulness of certain provisions in the PRCEP in light of the restriction in s 30(2) of the RMA on performing certain functions to control fisheries resources under the Fisheries Act 1996. Declarations made by the Environment Court were appealed to the High Court and further appealed to the Court of Appeal. The Court of Appeal held, inter alia, that the effect of s 30(2) of the RMA was that a regional council might control fisheries resources in the exercise of its s 30 functions, including those listed in s 30(1)(d), provided it did not do so to manage those resources for Fisheries Act purposes.

The Environment Court now reviewed its findings in the interim decision, namely that the PRCEP had a lacuna as to the protection and enhancement of significant indigenous biodiversity, outstanding natural character and outstanding features and landscapes within the Motiti Natural Environment Management Area (“the MMA”) and that further controls to avoid effects on such values in the MMA should be included in the PRCEP. The Court noted that in July 2019, the Bay of Plenty Regional Council (“the regional Council”) had circulated further draft provisions of the PRCEP and the Court had received submissions on these. After considering the submissions, the Court agreed with the regional council’s submissions that the final analysis of the wording of the provisions could now be decided. Noting that the matter had been in train for over five years, and that the balance of the regional plan was settled, the Court’s view was that finality was of public importance and that it could move to finalising the wording and the issues about mapping.

The Court considered the wording of the relevant provisions and made decisions on each matter. Overall, the Court’s view was that the mapping now properly supported the interim
~~~~~~

decision and was the most appropriate way of giving certainty to users of the area. The other provisions broadly recognised the intent of the interim decision and provided the most appropriate balance between the interests of the appellants and of the wider public. Accordingly, under ss 32 and 32A of the RMA, the Court endorsed the provisions and directed that they were to be included within the regional plan. The Court directed that the council's suggested provisions, as set out in Annexure A, were adopted, except to the extent they were specifically amended by the present decision. The mapping was confirmed as set out in Annexure B. The regional council was directed to file an updated set of provisions for approval by the Court. The Court did not see that what had been a difficult and extensive issue for parties was an appropriate case for the award of costs. Costs were reserved but not encouraged.

Decision date 26 May 2020 - Your Environment 28 May 2020.

~~~~~~

Canterbury Regional Council v HB Properties (2011) Ltd _ [2019] NZDC 24060

Keywords: prosecution; river; earthworks; discharge to water; contaminant; wetland; enforcement order

HB Properties (2011) Ltd ("HBP") was sentenced after pleading guilty to three charges laid by Canterbury Regional Council ("the council") relating to earthworks and vegetation removal undertaken by HBP at its property at Orari. A digger was used to clean up an area of unwanted plant species, as part of an environmental enhancement programme around a small wetland, fed by two springs and a stream. Although HBP was permitted to undertake some of the works, it was not permitted to intrude into the wetland and stream, but had done so. The summary of facts stated that all the exotic willow trees around and in the bank of the stream were removed and a channel was excavated in the wetland constraining the water and realigning it for 100 metres downstream.

The Court considered the sentencing principles as established by the Sentencing Act 2002 and case authority. The charges were laid under ss 9(2)(a), 13(1)(b) and 15(1)(a) of the RMA. However, the Court adopted a global starting point for all three offences, which were just different aspects of a single incident. The adverse effects of the offending included the mobilisation of sediment on the stream bed, the provision of an ongoing source of sediment into the stream, removal of shade and bank stabilisation and an increase in water velocity. Regarding culpability, the Court did not agree with the council's view that the offending was careless or mildly willful. The defendant was entitled to undertake much of the works, but at the point when the water had started flowing (upon removal of the willows on the stream bank), the defendant was put on notice to check as to the legality of proceeding. After considering comparative cases, the Court adopted a starting point of $30,000. From this figure HBP was given a five per cent credit for good character, but declined further credit for agreeing to an enforcement order requiring a remediation plan to be established. A further 25 per cent was discounted for early plea.

Accordingly, HBP was fined $21,375, being allocated as to $7,125 for each offence, and ordered to pay solicitor and court costs. Ninety per cent of the fine was to be paid to the council. The Court made an enforcement order under s 339(5) of the RMA.

Decision date 16 January 2020 - Your Environment 20 January 2020.

~~~~~~

Canterbury Regional Council v Bathurst Coal Ltd _ [2019] NZDC 23872

Keywords: prosecution; discharge to land; discharge to water

Bathurst Coal Ltd ("Bathurst") was sentenced in the District Court, having pleaded guilty to a charge, laid by Canterbury Regional Council ("the council"), under s 15(1)(b) of the RMA. The charge arose from the unauthorised discharge of sediment-laden stormwater to land which entered the Bush Gully Stream ("the Stream"). Bathurst, which participated in an alternative environmental justice process with the council, sought discharge without conviction.

The Court considered the sentencing principles as derived from the Sentencing Act 2002 ("the SA") and case authority. Bathurst held a resource consent, with conditions, from the council allowing the discharge of contaminants from specified coal mine works to land and into a tributary of the Stream. On a routine inspection, council officers found that there was no discharge from the authorised discharge point. However, they saw sediment-laden stormwater discharging from another, unauthorised, location and overflowing an incomplete bund into the

adjoining owner's land and from there into the Stream. It was found that Bathurst had not put in place all the required erosion and sediment management infrastructure to treat stormwater and no channel or bund had been built to convey stormwater to the discharge point required in the conditions. Further, a silt fence was ineffective and incorrectly positioned for purpose. The Court considered that the facts established a systemic failure by Bathurst to provide the necessary infrastructure to control stormwater and sediment, as required by its consent.

The environment affected was the Stream which was part of the habitat for the Canterbury mudfish which had a nationally-critical threat rating. It was a vulnerable environment where there was a high degree of management required by those undertaking land use activities in it. The adverse effects on this environment included unauthorised sediment accumulation and discharge which threatened the remaining populations of the mudfish. The Court considered the appropriate starting point for penalty. The offending involved the breach of three conditions of Bathurst's consent for the mine, which the Court found to be of particular concern because breach of conditions undermined the basis on which resource consent was granted. The Court was unable to draw any conclusions as to the actual effects because of the failure by the council to provide any adequate assessment of the actual or potential effects of the discharge on the mudfish population. The Court concluded that Bathurst's culpability was high and that the vulnerability of the environment and Bathurst's systemic failure to comply with conditions meant that the appropriate starting point was $30,000. The Court stressed that if the council had properly assessed the adverse effects, the starting point would have been greatly increased. The Court took into account the funds provided by Bathurst for a programme of stock fencing, sediment control and planting. Against this, the Court considered the principle that sentencing credits should not have the effect of reducing penalties to a meaningless level and that wealthy parties should not be able to buy their way out of penalties. No credit was given for past good character in view of the fact that Bathurst had previously been subject to 27 infringement notices. Taking all these factors into account, the Court reduced the penalty by 20 per cent for remorse and the betterment expenditure and then by a further 25 per cent for prompt guilty plea, bringing the final penalty to $18,000.

Addressing Bathurst's application for discharge without conviction under s 106 of the SA, the Court recognised that the offending was at lower end of seriousness. However, it occurred in a vulnerable environment which was a highly important habitat for a nationally-threatened species and involved a systemic failure to comply with consent conditions. Regarding the consequences of a conviction, Bathurst submitted that it was "an overseas person" for the purposes of the Overseas Investment Act 2005 and as such required the approval of the Overseas Investment Office ("the OIO") and to satisfy the OIO that it was of good character. A breach of such good character test was a potential consequence of a conviction and the impact of such a breach might affect any further future purchase by Bathurst of sensitive land. Having taken all matters into account, the Court did not consider that the fact that the OIO might investigate the matter was out of all proportion to the gravity of the offence. The application for discharge without conviction was dismissed. Bathurst was accordingly convicted and fined $18,000, and ordered to pay solicitor costs and court costs. Ninety per cent of the fine was to be paid to the council.

Decision date 20 January 2020 - Your Environment 21 January 2020.

~~~~~~

Streat v Queenstown Lakes District Council _ [2020] NZEnvC 39

Keywords: consent order; resource consent; subdivision; residential

C and L Streat ("S") appealed against conditions of consents granted by Queenstown Lakes District Council to Treespace Queenstown Ltd for a proposed subdivision, residential development and ecological restoration of Mt Dewar ("the site"). The home of S was directly adjacent to the site. Their appeal raised issues as to amenity values effects of the proposal. The Court now considered the consent memorandum submitted by the parties seeking to resolve the appeal.

The Court stated that it was satisfied, on matters of substance, that this was a suitable case to make a consent order under s 279(1) of the RMA. However, there was a narrow issue as to drafting of one of the conditions. Normally, the Court would refer the matter back to the parties. However, the Alert Level 4 response to the Covid-19 pandemic meant that this would cause difficulties. Accordingly, the Court proposed a drafting solution and gave the parties the chance to respond. The drafting solution the Court proposed would be included in the consent order, subject to any response received. If no such response was received, the consent order would
~~~~~~

be issued with the modification proposed by the Court to the condition. The appeal was allowed in part and otherwise dismissed. The Court made directions accordingly.

Decision date 8 May 2020 - Your Environment 11 May 2020.

~~~~~~

Tauranga Environmental Protection Society Inc v Tauranga City Council - [2020]NZEnvC43

Keywords: resource consent; conditions; electricity; utility; coastal; regional plan; national policy statement; effect; alternative location; Maori values

This appeal, by Tauranga Environmental Protection Society Inc ("TEPS"), was against the decision by hearing commissioners on behalf of Tauranga City Council and the Bay of Plenty Regional Council ("the councils") to grant land use consents and coastal permits to Transpower New Zealand Ltd ("Transpower"). The consents were granted under the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ("NESETA") and under the Bay of Plenty Regional Coastal Environment Plan ("RCEP"). The proposed works were to realign an existing electricity transmission line, Hairini - Mt Maunganui A ("the A-line") which traversed the Maungatapu peninsula, Tauranga Harbour at Rangataua Bay and the Matapihi peninsula. The proposal, aimed at maintaining the electricity supply from the National Grid to Mt Maunganui and Papamoa, gave the opportunity to move the line off private land, including land owned by Ngāti Hē and Ngāi Tukairangi and to remove a tower in the harbour. The New Zealand Transport Agency ("NZTA") was not a party although involved in the proceedings. TEPS raised issues regarding the effects on the residential character of Maungatapu, arguing that Transpower rejected alternatives such as carrying the cable along the seabed, on the existing bridge and on a cycle bridge. Other grounds of appeal included the adverse effects on the Harbour as an ONFL, which were required to be avoided under the Policy 15 of the New Zealand Coastal Policy Statement ("NZCPS") and on the aesthetic and natural character values protected by the RCEP; and the proposal was contrary to polices of the National Policy Statement on Electricity Transmission ("NPSET"). Various local iwi bodies were s 274 parties to the appeal. The trustees of Maungatapu Marae opposed the transmission poles which would be directly in front of the Marae, but supported the removal of the A-line and other poles from their land, submitting that it would end a long-standing grievance originating from what was considered to be an illegal installation of the line 60 years ago. Certain Māori groups also raised the issue that that Transpower had not properly considered alternatives for the harbour crossing.

After considering the background and existing environment, the details of the proposal and the resource consents sought, the Court addressed the legal framework, under s 104 and 104B of the RMA, the NESETA Regulations, the relevant policies and objectives of the NZCPS, the NPSET, the Bay of Plenty Regional Policy Statement ("RPS"), Regional Plan ("RNRP") and the RCEP, and the Tauranga District Plan, in addition to three iwi and hapu management plans. The Court accepted that the RCEP was comprehensive and that resort did not need to be had to pt 2 of the RMA. After a detailed analysis of the relevant policies and objectives of the statutory instruments, the Court addressed the three main consenting issues: whether the activities should be bundled, or whether the effects of the removal of the existing line should be considered separately from the construction of the new line; whether Transpower adequately assessed alternative methods for the realignment of the A-line; and whether the proposal was to be categorised as an upgrade or new infrastructure (as different policies in the NPSET applied to each category). The Court found that: the activity was to be assessed as a single one; the mooted alternatives, being attaching the A-line to an existing bridge, or to an undersea cable, would involve increasing the costs of the proposal by an unreasonable magnitude and would be beyond the Court's jurisdiction to direct, and Transpower had properly assessed the alternatives; and the proposal was to be considered under policies relating to an upgrade.

Evidence as to the cultural effects of the proposal was considered at length by the Court which concluded: the key issue was the damage to the mana of the Maungatapu Marae and the location of Pole 33C; Transpower had carried out full and detailed consultation with all iwi and hapu concerned; from the engineering evidence, there was no opportunity to remove Pole 33C; the proposal would result in certain adverse effects and would result in the existing adverse effects being removed; the proposed realignment would not have cumulative adverse effects on Ngāti Hē; the benefits of the proposal to Ngāti Hē, coupled with those to Ngāi Tukairangi, were greater than the adverse effects of Pole 33's placement.
~~~~~~

The Court then turned to consider effects on the natural and physical environment, landscape and visual effects, the conditions of consent and the commissioners' decision before making conclusions and findings. First, the Court's consideration was limited to the scope of the RMA and neither the Court nor the councils had the power to substantially alter Transpower's proposal nor to require any third party, such as NZTA, to participate. The benefits of the proposal to Ngāti Hē would be significantly positive and restore the mana of the land and remove safety and access issues. The achievement of such benefits gave effects to a number of relevant objectives and policies at national, regional and district levels relating to the relationship of Māori with their ancestral lands, water, sites, wāhi tapu and other taonga, the natural heritage of Te Awanui and the amenity values of the Maungatapu and Matapihi peninsulas. Properly assessed on a single, comprehensive basis, the proposal's effects were to be considered together. The relocation of the A-line to an alignment along State Highway 29A and above the Maungatapu Bridge did not have wholly positive effects. It enabled the removal of the existing lane and secured supply of power. However, it created new and adverse visual effects in specified areas. The alternatives considered appeared impracticable and to entail prohibitive costs; the Court had no jurisdiction to order such alternatives. The positive effects of removing the existing A-line and the adverse effects were not equivalent. The Court found that positive effects were significantly greater than the adverse in intensity and scale. The Court concluded that the proposal was more appropriate overall than the alternative which was the status quo. Accordingly, the appeal was refused and the grant of consents confirmed, subject to conditions. Costs were reserved.

Decision date 15 May 2020 - Your Environment 18 May 2020.

~~~~~~

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

Should you wish to obtain a copy of the decision please phone Thomson Reuters Customer Care on 0800 10 60 60 or by email to judgments@thomsonreuters.co.nz.

~~~~~~

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

~~~~~~

Other News Items for July 2020

~~~~~~

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 Media Release for full statement

~~~~~~

Government exempts some home improvements from costly consents

Minister for Building and Construction Jenny Salesa has announced that homeowners, builders and DIYers will soon have an easier time making basic home improvements as the Government scraps the need for consents for low-risk building work such as sleep-outs, sheds and carports - allowing the construction sector to fire back up quicker on larger projects to provide jobs and assist the country's recovery from Covid-19.

The Government is introducing new exemptions to the Building Act in a move save homeowners $18 million in consenting costs each year, though building work must still meet the Building Code.

"These changes will save New Zealanders time and money and mean councils can focus on higher-risk building work, boosting the building and construction sector in the COVID-19 recovery," Jenny Salesa said.

"Single-storey detached buildings up to 30 square metres - such as sleep-outs, sheds and greenhouses; carports; awnings; water storage bladders and others will now not require a Council-approved building consent, which will result in 9000 fewer consents to process a year.

"Some of the new exemptions will utilise the Licensed Builder Practitioners scheme, which recognises the competence of these building practitioners and allows them to join chartered professional engineers and certifying plumbers in having their own suite of exemptions," Jenny Salesa said.

Most of the new exemptions are expected to commence at the end of August, after the necessary changes to the Building Act have been made. - Please click on the link for full statement. Media Release

~~~~~~

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.

~~~~~~

Easement muddies waters for small gold club

Otago Daily Times reports that the Otematata Gold 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 partly privately by Meridian. Read the full story here.

~~~~~~

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.

~~~~~~

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.

~~~~~~

Property investment brings hefty fine

Voxy reports that overseas investor, Chor Ltd, have been fined over $500,000 by the High Court, following their purchase of a Karaka property without consent from the Overseas Investment Office. The property is considered 'sensitive land' - it is larger than 0.4 hectares and is both foreshore- and reserve-adjacent. Read the full story here.

~~~~~~

Dunedin coastal cycleway proposed

The *Otago Daily Times* reports that the funding, feasibility and risks associated with the proposal for a 195 km recreational cycle trail along the coast between Dunedin and Oamaru, estimated to cost $14 million to construct, will be discussed by Dunedin City Council. Read the full story here.

~~~~~~

Low-graded Taranaki hospital buildings to be given $300m upgrade

Taranaki Daily News reports that a $300 million development is planned of the emergency, maternity and intensive care departments of Taranaki Base Hospital, whose buildings and infrastructure were given a low rating in a recent report. Read the full story here.

~~~~~~

Auckland MC loses fight to have save land

Stuff reports that Auckland Motorcycle Club has failed, by its judicial review proceeding against Auckland Council, to save an Mt Wellington racetrack by having it designated as park land. The track, where many famout Kiwi riders and drivers learned to race, was closed after more than 50 years, as the council designated it as a future road, to get a better commercial return. The MC argued, unsuccessfully, that the council out to have consulted on its decision to lease it, as the land was a park. Read the full story here.

~~~~~~

Public housing numbers boosted

Radio NZ reports that 71 public housing apartments have opened in Auckland, replacing 30 terraces units. A mixture of one- and two-bedroom apartments, with several accessible to those with mobility issues, they are expected to ease the ongoing need for housing. A further 8,000 are planned for roll out over the next few years. Read the full story here.

~~~~~~

Northland's feral deer problems

The Northland Age reports that 30 years ago, according to Northland Regional Council biosecurity manager Don McKenzie, there were no known feral deer in the region. Now the council are fighting to contain and cull feral sika, fallow and red deer populations throughout Northland. Most are the legacy of farm escapees, or illegal releases. Read the full story here.

~~~~~~

Tairawhiti looking to summer

Voxy reports that proposed changes to Freedom Camping and Resource Management legislation are among the items being put before the Sustainable Tairawhiti Committee this week. Recommendations would then be made to the Gisborne District Council, for future enforcement. The committee are looking to ensure camper compliance and protect the coastal areas so vulnerable to overuse and abuse. Read the full story here.

~~~~~~

Construction of Wanaka terrace houses completed

The *Otago Daily Times* reports that the construction of 20 terrace houses, originally part of the KiwiBuild scheme, has been completed in Wanaka. The houses were removed from the KiwiBuild programme by Housing Minister Megan Woods and put on the open market. Read the full story here.

~~~~~~

Rare, endangered bat colony found in Canterbury farm

The *Otago Daily Times* reports that a colony of critically-endangered long-tailed bats has been found living among willow trees at a farming property near Geraldine. Environment Canterbury and the farm's owners are working to protect the bats. Read the full story here.

~~~~~~

Watercare to seek $180m to find alternative water sources

newsroom.co.nz reports that contingency budget plans are being considered by Watercare and Auckland Council to spend up to $180 million to investigate alternative sources for the supply of water to drought-stricken Auckland. Read the full story here.

~~~~~~

Greenpeace asks New Zealand Government to ban on all plastic drink bottles

Radio New Zealand reports that Greenpeace wants to stop the annual production of up to one billion single-use plastic bottles in New Zealand and has asked the Government to compel beverage companies to produce other options for containing and selling their products. Read the full story here.

~~~~~~

Major expansion of Southland milk processing plant

The *Otago Daily Times* reports that the Open Country Dairy milk processing plant in Awaroa, Southland, is to have a 50 per cent increase in manufacturing capacity. Read the full story here.

~~~~~~

'Long time coming': business tenants relieved over rent policy

Radio New Zealand (RNZ) reports that tenants at one of Wellington's largest malls say the new government policy on arbitration has arrived in the nick of time, with many worried an ongoing disagreement with their landlord would see them in court, or bankrupt. North City is owned by the Australian rich lister Nick Di Mauro's company, Angaet Holdings. The company also owns Westcity Waitâkere in Auckland. Tenants at North City were offered either a 50 per cent rent abatement for April and May so long as a 12-month lease extension was agreed to, or a 50 per cent rent deferral without the extension. However the businesses, some of which already had years left to run on their leases, were nervous to extend, given trading uncertainty and could not afford the deal on the table, given the harsh downturn in revenue. Managing director of the Acquisitions home and giftware chain Richard Thomson said the temporary property law change would have been more helpful earlier on but the arbitration in the temporary law was a welcome "peace of mind". Comments from the chief executive of the Franchise Association (FANZ) are also included in the RNZ article. Read the full story here.
~~~~~~

~~~~~~

Olympic Aquasports facility "has legs"

Voxy reports that the WHoW Charitable Trust are planning an Aquasports facility, to be built on formally red-zoned land along the Kaiapoi River. The proposed facility would have surf wave, whitewater and cable wakeboard capabilities, to allow year-round training for those qualifying at Olympic and world-level sporting events. Support has been given by the Waimakariri District Council in the form of a short term lease on the land. Read the full story here.

~~~~~~

Government package too little, too late.

Sharechat reports that the announcement by Government of a commercial rent dispute process is "too little, too late for a majority of landlords and tenants", according to Property Council CEO, Leonie Freeman. A support package is needed more than a dispute resolution option. Read the full story here.

~~~~~~

Heritage status for bridge

The *Otago Daily Times* reports that the Truby King Railway Bridge in Tahakopa, part of the Catlins heritage track, is to be listed in the New Zealand Heritage List to recognise its historical, aesthetic, technological and social values. Read the full story here.

~~~~~~

Waikato DC defers rezoning needed for Sleepyhead's relocation proposals

The *Waikato Times* reports that Comfort Group's plans for a $1.4 billion industrial, commercial and housing development north of Huntly has been stalled by Waikato District Council's decision to delay until September the decision whether to rezone, from rural to industrial, the 178 hectares set aside for the development. Read the full story here.

~~~~~~

Milford Tunnel resurfacing works commence

The *Otago Daily Times* reports that the single-lane Homer tunnel will be closed periodically for some weeks to enable $1 million of road works to be undertaken by NZTA. Read the full story here.

~~~~~~

Oakura subdivision at the forefront

Taranaki Daily News reports that the future of New Plymouth's picturesque coastal village of Oakura will be decided today, when the New Plymouth District Council meet to consider whether a 144-home subdivision gets the go-ahead or not. The original proposal to the council, which received hundreds of submissions against it, was for 399-homes. Read the full story here.

~~~~~~

Subdivision near cherry orchard leads to opposition

Otago Daily Times reports that a proposal before the Central Otago District Council, to makes changes to Plan 14, allowing for a residential subdivision to be developed alongside existing and expanding cherry orchards, has led to significant opposition. Opposition focused around the extreme noise generated by the likes of diesel motors, frost fans and bird scarers, which would lead to very unhappy residents in the area. Other orchardists had concerns also that this lack of right to quiet enjoyment would lead to councils gradually eroding rights to operate independent orchards. Read the full story here.

~~~~~~

Council looking to the future

NZ Herald reports that Waikato Regional Council are looking to work with Thames-Coromandel District Council and NZ Transport Agency, to investigate ways to prevent the extreme flooding and landslips, seen over the weekend, and a frequent occurance, throughout the Coromandel Peninsula. Read the full story here.

~~~~~~

Wellington CC takes on up to $200m library repair, decides against cheaper rebuild _

Radio New Zealand reports that Wellington City Council has decided to refit and repair the city's existing earthquake-prone library building, at an estimated cost of up to $200 million, in preference to a demolition and rebuild, which was estimated to cost $40 million less. Read the full story here.

~~~~~~

Emergency over large fuel spill from Siberian power plant in Arctic circle

The Guardian reports that Vladimir Putin has declared a national state of emergency following the discharge of 20,000 tonnes of diesel fuel into a river in the Arctic Circle. The fuel had been stored at a power plant near the city of Norilsk. Read the full story here.

~~~~~~

$14 million to ensure work continues on Transmission Gully

Stuff reports that New Zealand Transport Agency will pay $14 million to the builders of Transmission Gully. The payment is meant to ensure work continues on the project over the winter while a final settlement is negotiated with contractor and construction companies. Read the full story here.

~~~~~~

Historic Napier hotel renovation approved

Stuff reports that Napier City Council has granted resource consent to Ectara Enterprises Ltd to restore the Criterion Hotel, from a backpackers hostel into a 20-suite boutique hotel. The two-storey Spanish Mission building is a Category 1 heritage item. Read the full story here.

~~~~~~

Dunedin CC delays waterfront development project

The *Otago Daily Times* reports that Dunedin City Council has decided to defer the first stage of the city's waterfront development. The Provincial Growth Fund had awarded $19.9 million towards the project but Mayor Aaron Hawkins says the city will withdraw from the Growth Fund process due to the economic effects of the Covid-19 emergency. Read the full story here.

~~~~~~

Demolition of Masterton Old Town Hall deferred

The Dominion Post reports that Masterton District Council has decided to delay the demolition of the Old Town Hall, for which $2 million had been provided in the annual plan, until more detailed plans regarding the design and construction of a new replacement building are developed. Read the full story here.

~~~~~~

Hamilton CC may give some water to Auckland

The *Waikato Times* reports that Watercare wants to use some of Hamilton City's excess water allocation to help alleviate the shortage in Auckland. Read the full story here.

~~~~~~

Development for betterment, or riding roughshod over property rights?

Stuff reports that National MP for Hamilton West, Tim Macindoe , says landowners impacted by development in the city's south should be treated fairly — but has stopped short of calling for financial compensation. The Hamilton City Council is using the Public Works Act 1981to acquire the property rights for 39 properties as part of the $366 million transformation of Peacocke, Hamilton's development showpiece in the city's south and could see as many as 8000 houses built there. Read the full story here.

~~~~~~

Easement gives county control

Decorah News reports that property owners neighbouring the Daley Bridge have asked the county to stop the area being used as parking for kayakers and canoers. Winneshiek County
~~~~~~

have told the residents that the property is a combination of county-owned, or controlled due to an easement. Read the full story here.

~~~~~~

Reno reveals rich history of Waihi property

Waihi Leader reports that Waihi's oldest surviving retailer is being restored to its former glory after its original facade was unwittingly unveiled during some rust repairs to its roof. The restoration of the property is slow and costly, but important as a part of the town's mining heritage. Read the full story here.

~~~~~~

Awatarariki residents take next step

NZ Herald reports that Awatarariki residents applied this week to the Environmental Legal Assistance fund to help pay for their upcoming challenge in the Environment Court to the Whakatane District Council's managed retreat. Independent commissioners previously ruled that the WDC's managed retreat was justified and lawful due to the high risk to life which exists on the fanhead at Matata. Read the full story here.

~~~~~~

Residential Tenancies (Healthy Homes Standards) Amendment Regulations 2020 (LI 2020/101)

These regulations, which come into force on 30/06/2020, change the date by which landlords must include in any new or renewed tenancy agreements a statement of their level of compliance with the *Residential Tenancies (Healthy Homes Standards) Regulations 2019* (the healthy homes standards).

Section 13A of the *Residential Tenancies Act 1986* (the Act) sets out the information that must be included in a tenancy agreement. Under section 13A(1CA), landlords must include a statement that they will comply with the healthy homes standards, as well as (under regulations 33 to 39 of the healthy homes standards) detailed information about the landlord's current level of compliance. The information concerning the landlord's current level of compliance must be included in any tenancy agreement or renewal made and signed by the landlord on or after 01/07/2020.

The impact of COVID-19 restrictions has meant that landlords have been unable to collect the compliance information needed for the statement (for example, landlords have been unable to access properties in order to assess insulation levels). Accordingly, regulation 4 amends clause 11(1) of Schedule 1 to delay the date by which landlords will be required to include this information from 01/07/2020 to 01/12/2020. The deadlines for landlords to meet the healthy homes standards are unchanged.

~~~~~~