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

- Does the Environment Court have jurisdiction to determine which iwi holds "primary mana whenua" of an area, either generally or in the context of imposing resource consent conditions? This vexed question was the subject of an appeal to the High Court;
- Sentencing of two development companies following prosecution for exceeding the purchase price provisions of the HASHA Act (Special Housing Areas Act);
- Are "advice notes" appended to two subdivision consents, conditions of consent? This decision emphasises that Councils are obliged to distinguish clearly between conditions and advice notes;
- A prosecution of a company at Hamilton whose noise producing operations exceeded limits at adjacent residential properties. But did it have existing use rights?
- Is a future house for which the owner of a nearby site held a certificate of compliance, required to be considered as part of the environment for assessment of effects of an application for a commercial chicken farm at Springdale in the Waikato?
- The outcome of an appeal against proposed zoning of rural land near Wanaka;
- The final decision on an application for stopping a road at Silverstream in the Hutt valley.

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CASE NOTES DECEMBER 2020:

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Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd _ [2020] NZHC 2768

Keywords: High Court; tangata whenua; Māori values; jurisdiction

The High Court considered appeals by Ngāti Maru Trust, Te Ākita o Waiohua Waka Taua Inc Soc and Te Patukirikiri Trust ("the appellants") against the decision of the Environment Court ("the EC") of 14 November 2019 ("the EC decision"). The EC was asked to answer the question of whether it had jurisdiction to determine if any tribe held primary mana whenua over an area the subject of a resource consent application, either (a) generally or (b) where relevant to claimed cultural effects of the application and the wording of conditions. The EC answered "no" to (a) but reframed part (b) as being: when addressing s 6(e) of the RMA requirements, did a consent authority have jurisdiction to determine the relative strengths of the hapū/iwi relationships in an area affected by a proposal, where relevant to claimed cultural effects. The EC answered the reframed question (b) as "yes". The appellants argued that: the EC reframed the question unlawfully and unfairly; the EC should have answered both parts of the questions

as “no”; and the EC was wrong to find it had jurisdiction to assess the relative strengths of relationship insofar as that involved identifying an iwi pecking order.

Whata J now stated it had been agreed by the parties that the Court should determine: whether the EC erred in law and /or procedurally; if so, whether to address part (b) of the agreed question; and/or answer the reframed question. The Court reviewed the background to the EC decision and noted that the conditions were to consents granted by Auckland Council (“the council”) for works at the Westhaven Marina and Queens Wharf. Ngāti Whātua Ōrākei challenged conditions relating to the placement of pou whenua (cultural markers) as part of the proposal which recognised several iwi, in addition to Ngāti Whātua Ōrākei, as mana whenua in the Auckland region. Ngāti Whātua Ōrākei claimed to hold “primary mana whenua” and asserted that there was a duty to consider priority status under ss 6 and 8 of the RMA. The Court referred to the affidavits of Professor D Williams and Mr N Blair concerning principles of tikanga Māori and the meanings of “mana whenua”, “ahi kā” and “ahi kā roa”. Part 2 of the RMA was addressed by the Court, together with relevant case authority, including *Environmental Defence Soc Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593. The Court also considered ss 58M and 58N of the RMA relating to a Mana Whakahono a Rohe, and other relevant RMA provisions seeking to provide for Māori input into decision making, including ss 32(4A), 33, 35A, 36B, 39, 58D and 251-255. References in the Auckland Unitary Plan (“AUP”) to “mana whenua” and issues significant to Māori and to the Treaty of Waitangi were noted and discussed by the Court. The Court observed that the RMA was replete with refences to kupu Māori, and Parliament plainly anticipated that resource management decision-makers would be able to grasp concepts such as kaitiakitanga, tangata whenua, mana whenua, tāonga, and to apply them in accordance with tikanga Māori. However, when making resource management decisions, the Court said that local authorities and the EC were not engaged by pt 2 of the RMA in a process of conferring, declaring or affirming tikanga-based rights or powers per se. Neither did pt 2 of the RMA empower decision-makers to confer, declare or affirm the jural status of iwi; such jurisdiction rested with the High Court and the Māori Land Court. Nevertheless, the EC was necessarily engaged in a process of ascertaining tikanga Māori where necessary and relevant to the discharge of express statutory duties and, where the views of iwi diverged as to the responsibilities of kaitiaki, a decision under s 7(a) of the RMA might need to be made as to which of such views was to apply in the context of a particular application. This might require evidential findings as to what the iwi considered was required in tikanga Māori. The Court now stated that to ignore or refuse to adjudicate on divergent iwi claims about, for example, their relationship with affected tāonga, was the antithesis of “recognising and providing” for them, in terms of the s 6(e) duty.

The Court turned to consider the contentions of the appellants. The first was that the question as reframed by the EC did not achieve the objective of the original question, which was to resolve the key issue raised as to the jurisdiction of the EC to determine primary mana whenua status. Whata J disagreed, finding that the EC in substance had achieved the substance of the agreed question, but rejected jurisdiction to make generalised statements about primacy of mana whenua. The second contention was that the EC’s decision to modify the question was unlawful. The Court now also rejected this assertion, finding that the EC was purpose-built to assist parties to find resolution of disputes and was mandated to achieve cost-effective resolution, and to receive any evidence it thought fit. The third contention, which was that the EC’s use of District Court rule DCR 10.21 to enable the reframing of a question was beyond scope because the parties did not ask for it and the question did not address key issues raised by Ngāti Whātua Ōrākei. The Court found that, given the very broad remit of the EC to achieve sustainable management, there was no reason why the EC could not reformulate the question, subject to fairness considerations. The final contention of the appellant was that the process was unfair because it deprived the parties of a proper opportunity to submit on a reframed question which had potentially wider implications than the agreed question. The Court found that a clearer opportunity should have been given to the appellants and Ngāti Whātua Ōrākei to be heard on the reframed question. That ground of the appeal was therefore allowed. Given the partial success of the appeal, however, the Court stated that the parties did not want the matter to be referred back and had invited the Court to address the jurisdictional issue with finality.

The Court set out the key arguments for the parties. The appellants and the council said there was no jurisdiction to make findings on relative mana whenua. Ngāti Whātua Ōrākei disagreed. Returning to the agreed question, part (b), concerning the EC’s jurisdiction to determine whether any tribe held primary mana whenua over an area the subject of a consent application, where relevant to claimed cultural effects of the application and the wording of the consent and conditions, the Court observed that, in the present case, the term “primary mana whenua” was

not defined by any of the parties. Mr Blair considered that it included “the primacy of our customary authority and rangatiratanga”. The Court said that the transferability and applicability of Pakeha jural concepts, such as jurisdiction and primacy, to mana whenua still need to be worked out at the finer grain before the question could be answered. The Court said it was reasonable to require clarity as to the meaning of the tikanga concept in issue before resolving the issue of jurisdiction. Furthermore, resolution of issues of the present kind would normally require evidence, for example about mana whenua rights and interests, according to tikanga Māori. Further, what was implied by dominance of one mana whenua over another was ambiguous in a resource management context.

In the Court’s view, it was not required to determine whether Ngāti Whātua Ōrākei was “pre-eminent or dominant”. Rather what was required was an examination of whether, having regard to tikanga Ngāti Whātua Ōrākei, the pou whenua conditions in question were undermining their very being as Māori and as Ngāti Whātua Ōrākei. If so, it was to be decided whether such a condition accorded with ss 6(e), 7(a) and 8 of the RMA. The Court concluded that: the EC did not have jurisdiction under pt 2 of the RMA to confer, declare or affirm tikanga-based rights, powers or authority; the EC might make evidential findings about tikanga-based rights insofar as that was relevant to discharge the RMA’s obligations to Māori; the Court otherwise refused to answer part (b) of the agreed question without full argument and evidence as to meaning of “primary mana whenua” and its relevance in the decision-making exercise.

Overall, the Court was satisfied that when addressing the requirement under s 6(e) of the RMA, a consent authority, including the EC, did have jurisdiction to determine the relative strengths of the hapū/iwi relationship in an area affected by a proposal, where relevant to claimed cultural effects of the application and the wording of the resource consent conditions. However, any such assessment would be predicated on the asserted relationship being clearly grounded in and defined in accordance with tikanga Māori and that any claim based on it was equally clearly directed to the discharge of the statutory obligations to Māori and to a precise resource management outcome. The appeal was allowed in part. Costs applications were not encouraged, given the public interest nature of the appeal.

Decision Date 9 November 2020 Your Environment 10 November 2020:

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Auckland Council v Imperial Homes Norwest Ltd _ [2020] NZDC 20962

***Keywords**: prosecution; resource consent; conditions; dwelling; district plan; rule*

Imperial Homes Norwest Ltd (“IHNL”) and Imperial Garden Investment Ltd (“IGIL”) were sentenced in the District Court, having pleaded guilty to charges, laid by Auckland Council (“the council”) under ss 9(3), 340(1) and 338(1) of the RMA of using land in a manner which contravened a district rule. The defendants sold seven properties built under resource consents for affordable housing for more than the maximum price permitted by the conditions of the consents. The maximum price allowed was $636,000; the defendants sold the properties for within a range of $14,000 and $52,000 more than the maximum. The total unlawful amounts gained were $42,000 by IHNL and $126,000 by IGIL. Such additional amounts were obtained by imposing on purchasers an “optional variation” for driveway and landscaping components, when such variations were not authorised by the consents. In addition, IGIL failed to provide the landscaping required. After charges were laid, the defendants made reparations to the purchasers for the full amounts overcharged.

The Court considered the sentencing principles according to the Sentencing Act 2002 and case authority, noting that the offending in the present case was unusual in that there were no environmental biophysical adverse effects caused. However, the Court stated that “environment” in s 2 of the RMA included people and communities and the social and economic conditions affecting people and communities. Direct effects were suffered by the purchasers of the houses through being misled and the stressful complications of the purchase of what was for many their first home. Further the purpose of the Housing Accords and Special Housing Areas Act 2013 was consistent with the sustainable management purpose of the RMA.

The Court set a starting point for the over-charging of $20,000 per property. The starting point for the breach of the landscaping conditions was set at $2,000. The payment of reparation by the defendants was accepted as a mitigating factor. A discount of 25 per cent was given for early pleas.

Accordingly, IHNL was fined $30,000, calculated by a starting point of $20,000 for each of three purchase price breaches, totalling $60,000, reduced by 25 per cent for the reparation paid and
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a further 25 per cent for plea. IGIL was fined $44,000, calculated by adding a starting point of $20,000 for each of the four purchase price breaches, totalling $80,000, to a starting point of $2,000 fine for each of the four landscape breaches, totalling $8,000, reduced by 25 per cent for the reparation paid to the victims and a further 25 per cent discounted for plea. On each charge, both defendants were directed to pay court costs and solicitor's fee. Ninety per cent of the total fines was to be paid to the council.

Decision Date 4 November 2020 Your Environment 5 November 2020

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Freeman v Waimakariri District Council _ [2020] NZEnvC 164

***Keywords**: declaration; resource consent*

The Trustees of BA Freeman Family Trust ("the Trustees") applied for a declaration under s 310(h) of the RMA as to the interpretation of a resource consent. The resource consent, issued by Waimakariri District Council ("the council"), contained Advice Notes. A dispute arose between the Trustees and the council as to whether the Advice Notes comprised terms on which the council granted consent.

The Court reviewed the background. In 2014 the Trustees were granted subdivision consent to create 152 residential allotments and to undertake associated services or works. Such works included piping of McIntosh Drain and the upgrading of Parsonage Rd. The council understood that the subdivision stormwater would accord with the council requirements, including the piping of McIntosh Drain. The council was to contribute 50 per cent of the urbanisation of Parsonage Rd. Two Advice Notes were attached to the resource consent dated January 2014, specifying the council's contribution to specified works on Parsonage Rd.

A second subdivision application was made by the Trustees in October 2015, which recorded an increase in the length of the McIntosh Drain to be piped. The consent was granted in December 2015, and attached to it was two Advice Notes, which differed from those previously imposed in two respects: the council was to pay 100 per cent of costs of piping McIntosh Drain; and the entry to pay 100 per cent of the roading works on Parsonage Rd was omitted. The cost of the piping works was estimated to be $550,000.

The Court noted that the council submitted that the figure of 100 per cent was transposed in error from one column of the Advice Notes to the other, and that the piping of McIntosh drain conferred no public benefit and the council had no obligation to contribute to the cost. The Court said the parties agreed that Advice Notes were not, and were not to treated as, conditions of consent. The issue raised by the declaration sought was whether the Advice Notes were evidence of the fact that the works were for a public benefit. Whether or not the drainage works had a public benefit was a disputed fact about which the Court had evidence only from the council. However, the other works, on Parsonage Rd, were agreed to have both a public and a private benefit. The 50/50 cost-sharing set out in the Advice Notes was consistent with this. The council's position was that no upgrade of the road was required. The Court declined to make the declaration sought.

Decision Date 21 October 2020 Your Environment 22/ October 2020

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Hamilton City Council v Global Metal Solutions Ltd _ [2020] NZEnvC 174

***Keywords**: noise; enforcement order; industrial; mitigate; existing use*

Hamilton City Council ("the council") applied for enforcement orders against Global Metal Solutions Ltd ("GMS") and its managing director C Tuhoro ("T"). The orders sought to deal with the impact of noise missions from the metal recycling business of GMS which took place at 203 Ellis St, Frankton ("the site"). The site was in an industrial zone but the council argued that GMS activities exceeded the noise limits set in the Hamilton District Plan ("the plan") relating to residential areas near to the site. GMS submitted they had existing use rights and needed a minimum of two years to relocate the business to another site.

The Court considered the provisions of s 314 of the RMA and noted that the grounds for the application included that: noise measurements taken within the adjacent residential zone to the GMA site breached plan limits; GMS did not have consent to exceed the plan noise limits; numerous complaints about the noise had been received from residents; the noise was offensive and objectionable to the extent of having an adverse environmental effects; and GMS was in breach of the abatement notice issued in 2018, and of s 16 of the RMA. After

considering the noise rules in the plan, together with the relevant provisions of ss 16, 31(1)(d), 84, 314, 316 and 319 of the RMA, the Court stated the issues for determination were: whether GMS could satisfy the Court on the balance of probabilities that it had existing use rights; if not, could the council satisfy the Court that on the balance of probabilities GMS's activities would contravene s 314(1)(a) of the RMA; and if so, should an enforcement order be made and on what terms.

First, regarding existing use, the Court addressed s 10 of the RMA and relevant case authority finding, on the evidence, that GMS did not produce evidence to confirm that the business was lawfully established before the rule being breached became operative. Further, the Court accepted evidence that the use of the land by GMS which contravened the rule in the plan was discontinued for a continuous period of more than 12 months. The Court was also satisfied that the scale and intensity of the operation had changed over the years to such an extent that it was not similar in character, scale or intensity to that which existed prior to the relevant rule. Regarding s 314(1)(a), the Court was satisfied from evidence given by residents that the noise was having adverse effects on their health and well-being. The Court concluded that the evidence clearly established that, although not continuous, the noise levels from the site and reaching residential areas had consistently contravened those provided by the plan as applying to the nearly residential zone. Such levels were considerable and had adverse effects. The Court was further satisfied that the council had established that GMS was likely to continue to contravene the plan noise rule and that the council had made out a case for an order to be made under s 314(1)(a) of the Act. Relocation of GMS's activities was the best option.

The Court considered that GMS tended to blame the council for the situation and had not been prepared to offer any mitigation to residents. Further, it relied on the large size of its workforce to justify its continued operation until it relocated. The Court determined that an enforcement order should be made, but with a delayed time frame of 12 months to allow for compliance by GMS. Such indulgence should be accompanied by on-site mitigation measures to reduce the noise levels in the interim. The Court declined to make an order against T. The decision was an interim one only in respect of the outstanding matters which needed to be resolved. The parties were encouraged to agree on the terms of further orders, but were directed to report back to the Court by 30 October 2020.

Decision Date 5 November 2020 Your Environment 6 November 2020**:**

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Otway Oasis Society Inc v Waikato Regional Council _ [2020] NZEnvC 169

***Keywords**: resource consent; effects; dwelling; environment*

The Court considered a preliminary question of law prior to the hearing of an appeal. The proceedings were an appeal by the Otway Oasis Soc Inc ("Otway") against the decision of the combined Waikato Regional Council and Matamata-Piako District Council ("the councils") to grant resource consent to Kotuku Corporation Ltd ("Kotuku") for the construction and operation of an eight-shed commercial chicken farm ("the proposal") at 263 Wiseman Rd, Springdale ("the farm site"). The preliminary question was whether a future dwelling on Wiseman Rd, owned by the Slatterys, should be considered as part of the environment for the purposes of the assessment of effects of the proposal under ss 104 and 104D of the RMA.

The proposal attracted 34 submissions in opposition when it was given a limited notification by the councils. Otway was a successor to a number of submitters, including T and G Slattery, who were farmers in the area and owned land in five titles surrounding the proposal site. The Slatterys had stated their intention to construct a house for their retirement on Wiseman Rd ("the house site") and had obtained a certificate of compliance from Matamata-Piako District Council certifying that such a dwelling was a permitted activity. The proposal site and the house site were 300 metres apart. The question was whether, in assessing effects of the proposal, regard was to be had to effects, being mainly odour effects, on a dwelling on the house site. The hearing panel of the councils was not satisfied that the future dwelling should be considered as part of the future environment and granted consent to the proposal.

The Court considered the concept of the future environment, as identified by established case authority. The Court proposed to answer the question of whether or not the house site formed part of the future environment by determining, on the basis of a real world assessment, whether or not it was likely that such a house would be established. In this regard the Court made two what it called pivotal findings. First, that the Slatterys' expressed intention to build a house on their farm property was a longstanding and genuine one. The second finding related to the
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positioning of the house site on Wiseman Rd, as opposed to any alternative place. The Court found that the house site was the most viable, suitable and logical place for the Slatterys to build. The Court rejected Kotuku's contention that the construction of the house on the house site was merely a contrivance to thwart the proposal.

Having had regard to all considerations before it, the Court answered the question posed in the affirmative. The Court found that a future dwelling located on the house site should be considered as part of the environment for the purposes of assessing effects of the proposal under ss 104 and 104D of the RMA. Costs were to be determined on conclusion of the appeal.

Decision Date 28 October 2020 Your Environment 29 October 2020

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Boyd v Queenstown Lakes District Council _ [2020] NZEnvC 172

***Keywords**: district plan proposed; zoning*

This was the interim determination of the Court concerning appeals relating to the review of the Queenstown Lakes District Plan, Topic 16 - rezonings. J Boyd and others ("the Boyd Group") sought rezoning of land on the outskirts of Wanaka. The land, described in the annexure to the decision, comprised eight parcels. The notified Proposed District Plan marked the land as zoned rural general. The Boyd Group wanted a change to rural residential zone. Queenstown Lakes District Council rejected that and retained the rural general zoning of the land. Boyd Group appealed, joined by I Percy ("P") as a s 274 party. P owned one of the land parcels in question on which he operated a vineyard and raised reverse sensitivity concerns if the Boyd Group succeeded in changing the zoning. He sought that the frost fans used on the vineyard would not generate noise complaints.

The Court stated that, following mediation, the parties were agreed that lower density suburban residential ("LDSR") zoning was appropriate for the land. The parties sought directions under s 293 of the RMA to facilitate that outcome, as the LDSR zoning was beyond scope of available relief in the appeal.

The Court now considered the provisions and requirements of s 293 of the RMA and the proposal. The Court was satisfied that: the proceeding was a hearing on the papers; the LDSR zoning proposed was sufficiently related to and arose from the relief sought in the appeal; the amendments proposed related to a discrete area of land; and no district-wide provisions were to be amended. The Court concluded that in principle, it was satisfied that s 293 directions for a change to LDSR zoning would be within jurisdiction and appropriate. The Court also found the draft structure plan provisions were appropriate.

The Court determined there was a sound case, in principle, for s 293 directions, subject to various matters noted in the decision being satisfactorily resolved. A further decision would to be issued in due course, for the purpose of making the directions under s 293 of the RMA. The Court made directions to allow the positions of parties to be considered before final determinations were made.

Decision Date 30 October 2020 Your Environment 3 November 2020

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Re Upper Hutt City Council _ [2020] NZEnvC 168

***Keywords**: road stopping*

In October 2019, Upper Hutt City Council ("the council") proposed the stopping of an unformed road known as No 1 Line Silverstream ("the road") shown on SO Plan 518795. The Court issued an interim decision on 13 May 2020 indicating it was tentatively satisfied that it might be appropriate to approve the road stopping, and asking the council to address certain matters. The council responded, on 16 September 2020, with submissions and conditions to address the matters raised by the Court. The Court now said it was satisfied that the conditions proposed by the council were adequate to deal with the issues raised in the interim decision. Accordingly, under cl 6 of sch 10 to the Local Government Act 1974, the Court confirmed the stopping of the road.

Decision Date 27 October 2020 Your Environment 28 October 2020

(The interim decision was reported in Newslink September 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 December 2020

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Environment Canterbury plans to breathe new life into heritage-listed buildings

Star News reports that Environment Canterbury says it plans to refurbish an earthquake-damaged historic building and use it as an office space. The regional council bought the former Odeon Theatre and the Lawrie and Wilson building, which neighbour the council's central city offices, from Crown-owned company Ōtākaro, in August. The Odeon Theatre is the oldest masonry theatre in New Zealand having been built in 1883 and is a Historic Places Category 1 building. "We have strengthening options and initial pricing, and are putting together specifications for architects. It is intended to be strengthened and refurbished for office use during 2021," council director of finance and corporate services, Miles McConway, said. Read the full story here.

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Details of sale and lease of Shelly Bay confirmed

Dominion Post reports that Wellington City Council voted last week for the sale of 0.3 hectares and lease of 0.6 hectares of public land at Shelly Bay to an "entity chosen by" Port Nicholson Block Settlement Trust. The Trust was a combination of representatives of local iwi (Taranaki Whānui) and The Wellington Company (Owned by property developer Ian Cassels). The council confirmed on Sunday that the chosen entity is Shelly Bay Taikuru - a company wholly owned by two owners and directors: Cassels and partner, Patricia Taylor. Taikuru intend to develop a $500 million precint at the former Air Force base, including 350 apartments and townhouses, hotels, a rest home and a ferry terminal. Read the full story here.

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Developer stands behind proposed Eden Project for Christchurch Red Zone

The Press reports that an complex of concert venues, accomodation and xyz have been proposed for Christchurch's residential red zone, modelled after the UK's Eden Project in Cornwall. Following the removal of foreign tourist activity since the Covid-19 pandemic UK-based developers are wrangling with the decision whether or not to go ahead with the NZ Eden Project. Christchurch developer, Rob Kerr, who has developed a $480 million plan for the 11km-long Ōtākaro Avon River red zone corridor in Christchurch, said he hoped the Eden Project would go ahead in Christchurch - "We would love to discuss the opportunity with them and hopefully make it come to life". Read the full story here.

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Environment Court rules to protect endangered bats

Radio New Zealand reports that the Environment Court has ruled in favour of the Department of Conservation, Forest & Bird and Riverlea Environmental Society and granted protection to endangered long-tailed bats living on the south side of Hammond Park, near a new major subdivision. The pekapeka is one of New Zealand's few land mammals and the Court ordered a delay to building the part of the development opposite the bats' habitat, and that there must be a 15 metre buffer from the development to the area where the bats are located, together with a ban on cats. Read the full story here.

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Dunedin co-housing development almost completed

The *Otago Daily Times* reports that the 24-unit Urban Co-housing development at Toiora High Street, Dunedin, on the site of a former school, is expected to be completed iin the new year. The development aims to create an inter-generational neighbourhood, based on a co-housing system model. Read the full story here.

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Retirement facility development planned for Clyde

The *Otago Daily Times* reports that Central Otago District Council is considering an application for consent for the construction of a $200 million retirement development and residential subdivision at Clyde. Read the full story here.

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Couple awarded close to $20,000 after 2 years of garage flooding

Stuff reports that Emanu and Anne Avia endured flooding in the garage of their Manurewa rental for almost two years, damaging Anne's dress-making business and leaving her unwell. Despite the landlord having hired “several tradesmen” to fix the flooding, the lined double garage, which is split into two rooms, continued to flood every time it rains, the Tenancy Tribunal noted in a recent decision. The Tribunal has awarded the Avias close to $20,000 in a combination of refunded rent, compensation and exemplary damages. Read the full story here.

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Controversial boarding house gets green light

NZ Herald reports that plans to turn an existing rest home in Papanui into a boarding house have been given the green light, despite opposition from residents of the quiet suburban street. Residents argue it will change the community dynamic but, in a recently-released decision, independent commissioners fundamentally disagreed. Property owner, Greg Nell, wants to convert the building to be used as a boarding house for up to 75 tenants, including one resident on-site manager, under separate tenancy agreements. He maintains he will be targeting 25-45-age working people or post-graduate students, but neighbours say that that is no guarantee. Read the full story here.

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Long-standing dispute ends with structures coming down

Taranaki Daily News reports that former mayoral candidate, Irene Godkin, her sister and elderly father have watched as diggers pulled down structures on a property they have been illegally occupying for almost ten years. The property, the site of an historic boundary dispute, is owned by Koro Pue Whānau Trust, who have served them with trespass notices, called police and been through the Māori Land Court, all to no avail. Finally they obtained a possession warrant from the High Court, allowing them to pursue enforcement action and removal of the illegally erected structures. Read the full story here.

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Kāinga Ora's Hamilton Flagstaff housing development

The *Waikato Times* reports that housing agency Kāinga Ora has applied for resource consent to construct a 60-unit Flagstaff housing development in Hamilton, but the proposal has attracted some criticism because the application will not be publicly notified. Read the full story here.

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Mataura toxic waste problems closer to legal resolution

Radio New Zealand reports that the Environment Court says considerable progress has been made towards removing the 10,000 tonnes of toxic waste currently stored in Mataura. Judge Newhook said that the necessary contracts were being finalised and logistical plans for the removal were underway, with the aim of completion of the process by Christmas. Read the full story here.

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Dome Valley landfill consent hearing begins

Radio New Zealand reports that Waste Management's proposal to build a landfill near Warkworth is being heard by independent commissioners. Auckland Council, local iwi and residents have objected to the landfill's proposed site, beside two rivers running into the Kaipara Harbour. A decision on the proposed dump is not expected to be made until 2021. Read the full story here.

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Wasp eradication plan by Tasman DC

Radio New Zealand reports that Tasman District Council hopes to use biological warfare against the plague of wasps affecting large parts of New Zealand, especially the top of the South Island. The council has applied to the Environmental Protection Authority for consent to release a wasp-nest beetle and a hoverfly to combat the wasp pests. Read the full story here.

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"High" level of risk of landslip on Puhoi-Warkworth highway works

Radio New Zealand reports that the risk of landslides and slips of unstable soils on works on the Puhoi to Warkworth highway has increased because earthworks have been exposed to wet winter weather for longer than planned due to delays in construction caused by Covid-19. Read the full story here.

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Featherston's wastewater upgrade plans causing problems

Stuff reports that South Wairarapa District Council is struggling to arrive at a proposal to upgrade Featherston's wastewater system which meets the approval of the local community, who are raising concerns about the wastewater entering the receiving environment of Donald Creek and an internationally significant wetland. Read the full story here.

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Dunedin International Airport’s terminal expansion opens

The Otago Daily Times reports that Dunedin International Airport’s terminal expansion and new departure lounge have been officially opened. Airport chief executive Richard Roberts said the terminal expansion would vastly improve the experience for passengers at the airport. Read the full story here.

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New Habitat for Humanity project in Stoke

Stuff reports that Habitat for Humanity is planning a co-housing building development project in Stoke. The proposal is to build 14 homes. Read the full story here.

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Over 2,900 submissions on Wellington's draft housing plan

The Dominion Post reports that Wellington City Council's draft housing plan had attracted almost 3,000 submissions when public submissions closed last month. The council, directed by the recent national policy statement to increase intensification in certain areas, aims to accommodate up to 80,000 extra people in the city but the plan predicts there will be a shortage of 12,000 houses. Read the full story here.

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Waikato Regional Council approves Climate Action Roadmap

Voxy reports that Waikato Regional Council has voted unanimously to approve its Climate Action Roadmap, drafted to guide internal activities, budget planning and opportunities to work with iwi partners and key stakeholders, with a view to making the region as climate-resilient as possible. The roadmap addresses nine areas integral to climate action, from energy to future of transport, from coastal resilience to habitat restoration. Read the full story here.

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Auckland Council against Drury development proposal due to $1 billion shortfall for infrastructure

Radio New Zealand reports that an application by property developers Kiwi Property, Fulton Hogan and Oyster Capital for a plan change to rezone 330 hectares in Drury East to enable a commercial and residential development there will be opposed by Auckland Council unless an agreement can be reached to fund a $1 billion shortfall for infrastructure in the area. Read the full story here.

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Fonterra to delay building new Waikato wastewater treatment plant

Stuff reports that Fonterra, which had applied for resource consent for a proposed new $40 million wastewater plant for its Hautapu factory, has decided to delay the project until at least next year, following unfavourable feedback from local residents and iwi. Read the full story here.

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DoC plans to make some rivers whitebait refuges

The *Otago Daily Times* reports that establishing certain rivers as whitebait refuges is one one proposal that the Department of Conservation will put to the incoming Minister of Conservation to consider. If a river is made a refuge, whitebait fishing would be prohibited for a certain period of time. Read the full story here.

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NZTA funds $3m beach erosion protection project

The *Otago Daily Times* reports that, in an attempt to combat coastal erosion, the NZTA has funded a $3 million rock armouring project affecting ten positions along State Highway 1 at Katiki Beach near Dunedin. Waitaki Mayor Gary Kircher has welcomed NZTA's financial support for "strategically significant" stretch of road. Read the full story here.

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ORC stalls on new Dunedin landfill consent application

The *Otago Daily Times* reports that Otago Regional Council wants more information about a proposal by Dunedin City Council to build a new landfill for south Dunedin, near Brighton Beach, before it will grant consent. Additional information required by the regional council concerns the criteria used to evaluate alternative locations for the landfill, the waste management system proposed and the conditions. Read the full story here.

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Greater Wellington RC to move offices to renovated old Farmers building in Cuba Precinct

The Dominion Post reports that Greater Wellington Regional Council will occupy new offices currently being constructed on the site of the old Farmers store in the Cuba Precinct. The development, on the corner of Cuba and Dixon Streets, will include retail and hospitality spaces and apartments. The council's new offices will occupy 5900 square metres of the precinct. Read the full story here.

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Cost to reinstate Christ Church Cathedral increases by $50 m

Radio New Zealand reports that the cost to reinstate Christchurch's Anglican cathedral, originally estimated in 2017 to be $104 million, has now increased to $154 m. Read the full story here.

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Repair bill of $50-55m for Yarrow Stadium

The *Taranaki Daily News* reports that Taranaki Regional Council says that repairs to the Yarrow Stadium might begin by the end of this year. The cost of the works is estimated at between 50 to 55 million dollars, of which the Government has already given $20 million. Read the full story here.

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Submissions open on proposal to convert Dunstan Downs to conservation land

The *Otago Daily Times* reports that a proposal is being considered to convert 9,500 hectares of Dunstan Downs, a 12,300 hectare high-country pastoral lease farm to conservation land. The remainder of the pastoral lease, amounting to 2,800 hectares, would become freehold. Read the full story here.

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Eco-friendly freight depot opened

NZ Herald reports that Mainfreight's new freight facility has been officially opened with a powhiri and haka performed, to honour the iwi on whose land the facility is built, Mangatawa. The depot has been designed to be as eco-friendly as possible, with solar panels that lined the roof, a truck wash station that recycles 80 per cent of its water, and electric vehicle car parking stations. The building, the largest of Mainfreight's depots, runs alongside Tauranga's Eastern Link. Read the full story here.

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Ambitious cycle trail one pedal closer

Otago Daily Times reports that plans for two new bridges and an underpass, as part of a proposed cycle route connecting Queenstown and Cromwell, are one step closer to realisation with Central Otago Queenstown Trail Network Trust having produced something close to a final draft. The Trust has filed a resource consent application with the Queenstown Lakes District Council for the section between Nevis Bluff and the Citroen Rapids, along the Kawarau Gorge. Council approval would be subject to a condition that the Department of Conservation allows cycling on the Crown-owned land, as per a partial review of the current conservation management strategy. Read the full story here.

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Cull proposed as best option for community housing

Otago Daily Times reports that a recommendation has been put before the Southland District Council, by the manager of their Property Services, to shut down the council's community housing scheme. The council currently had 69 units across ten towns, predominantly tenanted by pensioners. Issues such as appropriate rental rates, suitability of condition and location and the lack of clarity around the need for the housing were at the heart of the recommendation. Read the full story here.

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First section of Transmission Gully will open to cars in November

Stuff reports that a 1.3 km portion of Transmission Gully at Paekākāriki will open to cars in November. The road was first proposed in 1919. Read the full story here.

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Concern that mega-development would destroy Wellington's largest flax swamp

Stuff reports that Friends of Taupō Swamp and Catchment claim that if the 2000-home Plimmerton Farm development is allowed, there will be a deluge of sediment and building waste that will overrun the swamp. Read the full story here.

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Proposed new Wellington CC building height rules raise residents' opposition

The Dominion Post reports that residents are protesting against a proposal to permit six-storey buildings near railway lines and commercial centres within the northern and western suburbs of Wellington. Tony Randle, vice-president of the Johnsonville Community Association, says the increase in housing density is not being fairly spread across the city. Read the full story here.

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Concerns that subdivision road may be used to create hazardous traffic link

Stuff reports that the small Christchurch subdivision of Cameo Grove may be connected by developer CDL Land to the neighbouring proposed large Prestons Park subdivision, planned to have 1150 residential lots, which Cameo Grove residents fear will cause increased traffic density and hazards and spoil the amenity of Cameo Grove. Read the full story here.

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DoC funding for removal of predators from Stewart Island

The *Otago Daily Time*s reports that Predator Free Rakiura chairman Paul Norris has welcomed the immediate allocation of $1 million, with the promise of more to follow, by the Department of Conservation for the eradication of predators from Stewart Island, which is home to 20 threatened species. Read the full story here.

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Invercargill Airport company resists proposed subdivision

Stuff reports that a proposal to build a 31-lot subdivision at Otatara, near Invercargill, has met resistance from the Invercargill Airport company, with its primary concern being that the proposed subdivision is located within the airport's noise boundary. Read the full story here.

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Definition of wetlands in NPS criticised

Radio New Zealand reports that the Ministry for the Environment accepts that the definition of "wetland" in the National Policy Statement for Freshwater Management was changed at a late stage. Parties as varied as the Forest and Bird Protection Society and the Quarry Association are complaining that the definition is too uncertain and confusing. Read the full story here.

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Offshore marine farm environmental impacts explored by team of scientists

Radio New Zealand reports that funding of $2.7 million has been awarded to the development of possible rules to assess the effects of relocating aquaculture infrastructure into offshore waters. Auckland University of Technology's Kay Vopel says the assumption is that such a relocation into deeper waters would increase the dispersion of organic waste, and lessen the environmental impacts of marine farms. Read the full story here.

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Auckland Council admits fault in not telling residents about Harbour Bridge traffic contamination

Radio New Zealand reports that Auckland Council has said it was wrong not to inform residents of the discovery by NZTA 10 years ago of heavy metal and hydrocarbon contamination associated with maintenance work and traffic on the Harbour Bridge. Read the full story here.

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Stricter freedom camping rules considered by Grey DC

Radio New Zealand reports that a draft bylaw which would limit freedom camping within the Grey District will be put to public consultation. Local residents have complained about the freedom campers blocking access and leaving a mess. Read the full story here.

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Wellington needs to find billions of dollars to fix and repair city's pipes

Stuff reports that Wellington Water and Wellington City Council estimate that the city's piping infrastructure will need between $2.2 billion and $4.5 billion to fix and replace old and defective pipes over the next three decades. Read the full story here.

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Plans for electric-powered planes on regional routes

Radio New Zealand reports that Sounds Air plans to offer zero-emission flights on regional routes within New Zealand, after completing the purchase of electric aircraft from Heart Aerospace, a Swedish company. Read the full story here.

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Seabed mining case goes to Supreme Court next month

The *Taranaki Daily News* reports that next month the Supreme Court will hear the appeal against the Court of Appeal's decision concerning the long-standing dispute about whether seabed mining of ironsands should be permitted in South Taranaki. Read the full story here.

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Wellington City Council considers reusable graves to deal with cemetery space shortage

Stuff reports that Wellington City Council is proposing to offer reusable burial plots due to rapidly declining burial space at its cemeteries. The scheme would allow people to buy temporary ownership of burial and ash plots during a 10-year trial period, with remains dug up years later and cremated or moved elsewhere. Read the full story here.

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Property companies fined for illegally charging for driveways and landscaping in Special Housing Area

Radio New Zealand reports that two property companies have been convicted and fined in the District Court. The companies were granted fast-tracked consent to build seven affordable homes in a Special Housing Area, and to sell them for a maximum of $636,000 each. However, the companies illegally charged first-home purchasers of the properties for extras, including driveways and landscaping. Read the full story here.

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Waikato Regional Council transfers water monitoring role to iwi

The Waikato Times reports that Tūwharetoa iwi has been granted water monitoring functions by Waikato Regional Council. The Tūwharetoa Māori Trust Board's role will include the monitoring of bathing beaches, rivers, rainfall and groundwater quality within the Lake Taupō catchment. Read the full story here.

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Driverless shuttle buses mooted for Queenstown

Radio New Zealand reports that the Transport Agency and the Ministry of Transport are considering a proposal by Xero founder Rod Drury to develop a fleet of driverless shuttle buses to carry cargo and passengers between Queenstown airport and the city, along a designated corridor. Read the full story here.

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