Newslink Case-notes for April 2022 prepared 20 March 2022.

~~~~~~

Legal Case-notes April 2022

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 as not all cases may have been reported in "Your Environment".

The Case-book Editor Roger Low can be contacted through the Survey & Spatial NZ 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;

- An appeal by DOC relating to proposed changes to the district plan of Thames-Coromandel District Council to introduce provisions in rules for earthworks to prevent spread of "kauri dieback disease";
- An unsuccessful appeal against grant of consent to a non-complying subdivision in an area in the Wakatipu basin of acknowledged landscape character, which is addressed differently in the operative and proposed district plans;
- A successful application for judicial review against grant of consent by Auckland Council to establishment of an adventure playground near Matakana on a non-notified basis because inadequate information had been provided to the neighbour when seeking written consent;
- An unsuccessful objection to the Environment Court a proposal by Hamilton City Council to take land under the Public Works Act for an arterial road through private land which is used as a bird park;
- This interim decision on a case involving a subdivision at Wanaka clearly shows that TLAs cannot legally separate engineering components from a consent to subdivision under RMA;
- A successful appeal to the Court of Appeal against decisions of the Auckland Council and High Court and over an application by the Maunga Authority to fell all the exotic trees on Ōwairaka/Mount Albert volcanic cone, a reserve under the Reserves Act 1977.

~~~~~~

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 APRIL 2022:

~~~~~~

Director-General of Conservation v Thames-Coromandel District Council _ [2021] NZEnvC 200

Keywords: district plan proposed; earthworks; conservation

This decision concerned a process under s 293 of the RMA to amend earthworks provisions for certain zones in a proposed district plan ("PDP") in order to bring them in line with other zones that had been amended on appeal. The Director-General of Conservation had filed appeal proceedings against Thames-Coromandel District Council ("the council") seeking inclusion in the PDP of controls on earthworks where there was a risk of the pathogen *Phytophthora agathidicida* being transferred from infected kauri trees to uninfected specimens. That appeal was successful. The appeal amended provisions in three zones of the PDP covering 95 per cent of the Thames-Coromandel district. A separate process was undertaken under s 293 to introduce similar rules to remaining zones not covered by the appeal. This decision finalised the s 293 aspect of the appeal.

The Court had directed a consultation process and issued a draft decision for comment by the parties. The council then filed two sets of draft amended plan provisions as a result of feedback from other parties and the Court's directions. In this decision, the Court accepted all of the council's most recent suggested changes, other than one minor drafting aspect where the Court preferred to retain provisions that the council had considered repetitive. The Court ruled that the plan changes (including the provisions the Court preferred to retain) were accepted. It directed the council to provide the updated provisions for all of the relevant zones for final approval by the Court.

Decision Date 27 January 2022 _ Your Environment 28 January 2022

~~~~~~

Brial v Queenstown Lakes District Council _[2021] NZHC 3609

Keywords: High Court; resource consent; district plan proposed; amenity values; subdivision

This appeal involved a subdivision of land in rural Queenstown that appeared to conflict with new subdivision controls for the district. The Queenstown Lakes District Council ("the council"), by delegation to a Commissioner, had granted resource consent for a two-lot subdivision of approximately 8 ha of land ("the property") owned by a party known as the Blacklers. The property was adjacent to a recognised outstanding natural feature ("ONF") and located in an area recognised by both the operative district plan ("ODP") and proposed district plan ("PDP") as having landscape and visual amenity values. Under the proposed subdivision, each lot would be approximately 4 ha in size. As well as obtaining the new consent, the Blacklers had applied to cancel an existing consent notice that limited the whole property to just one dwelling ("the existing consent notice"). Two neighbours from adjoining properties appealed the subdivision proposal in the Environment Court ("EC"). The EC held an interim hearing to determine community-level issues, such as whether the proposal had unacceptable effects on landscape and amenity values. It found that the proposal met the requirements of the RMA ("the interim judgement"). However, due to COVID-19 restrictions, the EC had to defer consideration of other grounds of appeal related to how the subdivision would directly affect the appealing neighbours. In these proceedings, one of those neighbours, M and E Brial ("the Brials"), were appealing the interim judgement, asserting several errors in law.

A key issue was new policy 24.2.1.1 of the PDP ("the policy"), which required "an 80 ha minimum net site area be maintained" in the relevant zone. This reflected a policy change from the ODP, which imposed no minimum site area. This policy shift reflected new concerns that incremental subdivision was degrading the character and amenity of the area. This presented a question about existing lots, such as the property, which were already smaller than 80 ha in size. The EC had found that the new policy was important but did not necessarily preclude subdivisions such as that proposed in this case. On appeal, the Brials submitted that the EC had failed to construe the policy correctly in accordance with

prevailing case law. They argued that the EC failed to recognise the policy's primacy as an environmental "bottom line" and had incorrectly applied the "overall balance" approach discredited in *Environmental Defence Soc Inc v New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593. The Court disagreed with this "bottom line" argument. First, it found that the EC had understood the importance of the policy and had recognised that subdivision of lots under 80 ha would "inherently conflict" with the policy. Further, the Court was satisfied with the EC's approach to the policy under s 104D (threshold requirements for non-complying activities) and s 104 of the RMA. While the EC noted that subdivisions like this would "struggle" to meet the threshold test in s 104D(1)(b) because they would be "contrary to the objectives and policies" of the PDP, the EC concluded that the subdivision met the alternative threshold test in s 104D(1)(a) because the adverse effects were "minor". Then, under s 104 it was required to have regard to the policy and the Court said it was for the EC to determine the weight to be given to it. The Court concluded that "[n]othing in this step-by-step analysis under the decision-making regime required the [EC] to treat Policy 24.2.1.1 as a bottom line". In considering the policy under s 104, the EC had appropriately given it significant weight, which meant it then closely scrutinised the proposal to ensure the subdivision would at least protect any ONF values and other landscape and amenity values. The EC had not erred.

The Court also rejected a submission that the EC had failed to give adequate consideration to a number of relevant policies in the ODP and PDP. Because the EC had only examined community-level issues in its interim hearing (and had left aside, for the time being, how the subdivision would directly affect the appealing neighbours), the EC had identified and discussed those matters which it found relevant to that range of issues. Further, the Brials did not identify any particular objective or policy within the "chapters" they alleged had been overlooked that could have materially affected the interim decision. The Court also disagreed that the EC had failed to take into account relevant considerations concerning the cancellation of the existing consent notice, in particular landscape and amenity values. When the EC had initially focused on community-level issues in its interim hearing, it considered in detail the effects of the entire proposal - both the new resource consent and the existing consent notice cancellation - on landscape character and amenity. Further, to the extent that cancelling the existing consent notice might directly affect the neighbours, the existing consent notice would be addressed in the EC's final hearing.

The appeal was dismissed. The appellants were ordered to pay costs to the council and the Blacklers on a 2B basis and disbursements to be fixed by the Registrar.

Decision Date 1 February 2022 _ Your Environment 2 February 2022

(The interim decision of the Environment Court which is subject of this appeal is identified as Todd v QLDC [2020] NZEnvC 205. See previous report in Newslink case-notes in March 2021- RHL.)

~~~~~~

Innova Tan Ltd v Auckland Council _ [2021] NZHC 3263

Keywords: High Court; resource consent; public notification; judicial review; scale; height; effect adverse

This was an application by Innova Tan Ltd (“ITL”) seeking judicial review of a decision by Auckland Council (“the council”) to grant a resource consent to Matakana Country Park Ltd (“MCPL”). MCPL operated Matakana Country Park, a 50-acre park offering recreational activities. In 2020 it applied to the council for resource consent to establish a new adventure playground. As part of the application process, MCPL met with the sole director of ITL, an adjacent landowner, and obtained his written approval in the form of a signed “written approval of affected persons” form from the council. He also signed two pages consisting of: (a) a site plan from an aerial photograph that showed the general location of the proposed adventure playground, but not the extent of it or its proximity to ITL’s land; and (b) a layout of the playground that showed the proposed location and footprint of each structure, but not their size or scale. These signed documents were forwarded to the council. The council subsequently decided that the application could proceed without being notified. The was done in reliance on a report by a council planner recommending that the application be
~~~~~~

processed as non-notified. The report stated that the applicant had received “written approval” from ITL and that therefore “any adverse effects on [ITL’s property] are disregarded”. That same day, the council granted MCPL resource consent.

ITL later sought judicial review of the council’s decision. Its principal argument was that the council was wrong to accept ITL’s written approval at face value. Documents signed by ITL’s director (and later forwarded to the council) did not convey the detail of MCPL’s application. The plans signed by him did not show the size and scale of the playground structures. While the footprint of most structures showed the name of the activity (albeit in very small typeface), the documents did not even reveal the name of the activity closest to ITL’s land: a 9.32m-high, bright blue-and-yellow waterslide. MCPL also did not show ITL’s director the assessment of environmental effects that had been prepared. This would have conveyed not only the size of the proposed structures, but also that the playground was not just for “children” but in fact a “ninja warrior” course designed for teenagers and adults. The director later said he did not understand that the proposed structures would be anything other than what one would find in a children’s playground at a primary school. He was “astounded” when he later saw MCPL’s actual application to the council.

The Court cited a “fundamental” principle in *Troughton v Western Bay of Plenty District Council* HC Tauranga CIV-2003-470-238, 18 February 2004 that “any consent to what is applied for in a resource consent should be ‘yoked’ to the application”. The Court said the defining aspect of the application in the present case was the size and scale of the playground structures, and yet ITL’s director never knew or had any appreciation of the size and scale of those structures. His approval was based on a misunderstanding. Further, the proposed activity was out of the ordinary and the council was therefore required to satisfy itself of ITL’s consent. The Court found that the council failed in this regard. While it was not necessary for ITL’s director to have the full suite of application documents, he should have been provided with more detail about the size and scale of the structures before the council could be satisfied his consent was genuine. Accordingly, the Court quashed the council’s decision to process the application as “non-notified” and held that the substantive decision to grant resource consent must also be quashed. The application for resource consent was referred back to the council for reconsideration. The Court found that ITL was entitled to costs.

Decision Date 10 December 2021 _ Your Environment 13 December 2021

~~~~~~

Shaw v Hamilton City Council _ [2021] NZEnvC 175

Keywords: public work; road; alternative; council procedures

This was the report of the Environment Court to Hamilton City Council (“the council”) regarding objections by M and M Shaw (“the Shaws”) filed with the Court under s 23(3) of the Public Works Act 1981 in respect of notices of intention to take land served on them by the council under s 23(1)(c) of the PWA 1981. The purpose of the take was to establish part of a road, the East-West Minor Arterial connection, which was designated as part of the Southern Links Project. The land to be taken covered 1.9170 hectares of the Shaws’ property at 143 Hall Rd, Peacocke, Hamilton City. The Shaws’ objection stemmed from their attachment to the land and in particular, a gully, in which they had established and maintained a bird park since 2006, and which was open to the public.

The Shaws alleged that adequate consideration had not been given to alternative sites, routes, or other methods of achieving the objectives of the council; and that it would not be fair, sound, or reasonably necessary for the land to be taken, for achieving the objectives of the council. The council considered it was fair, sound and necessary for the land to be taken for the purposes of the Southern Links project. The council also considered it had made every endeavour to negotiate in good faith with the objectors to reach an agreement for the acquisition of the land and had complied with its obligations under s 18 of the PWA 1981.

The Court was satisfied that the council gave adequate and genuine consideration to alternatives, including the alternative identified by the Shaws. The Court was satisfied that the council acted in good faith and endeavoured to be fair. The Court was satisfied that the process followed by the council was comprehensive and robust, including its consideration
~~~~~~

of alternatives. Further the Court considered that the council had acted both reasonably in the public interest, and equitably taking into account the interests of its ratepayers with due regard to the interests of the Shaws. Finally, the Court was satisfied that the taking of the Shaws' land was reasonably necessary to achieve the council's objectives.

Considered overall, the Court found that the taking of interests in the Shaws' land as proposed by the council was fair, sound and reasonably necessary for achieving the council's objectives. The Court dismissed the objection in all respects. Costs were reserved.

Decision Date 1 December 2021 _ Your Environment 2 December 2022

~~~~~~

Northlake Investments Ltd v Queenstown Lakes District Council _ [2022] NZEnvC 5

Keywords: resource consent; conditions; interpretation; subdivision; stormwater

This matter concerned a dispute about the interpretation of unique conditions of a subdivision consent. Northlake Investments Limited ("NIL") was a land development company undertaking residential development in the emerging suburb of Northlake. The development was well progressed and NIL had obtained consents for various stages of the development from the Queenstown Lakes District Council ("the council"). One particular subdivision consent it had been granted for a certain stage ("the Subdivision Consent") imposed several conditions, including a requirement that NIL apply for and obtain an "Engineering Review and Acceptance" ("ERA") from the council before commencing works ("Condition 11"). Under this Condition 11, NIL had to submit an ERA application to the council that detailed, among other things, specifications for the provision of a stormwater collection and disposal system, and specifically details of how "the existing downstream stormwater infrastructure" had been designed to accommodate stormwater run-off during both five per cent and one per cent AEP storm events. If any upgrades were required, NIL was required to provide details of those. After the Subdivision Consent had been granted, NIL became concerned that the council was acting unreasonably and unlawfully by not providing it with an ERA under Condition 11 and therefore delaying NIL's development. In these proceedings, NIL was seeking declarations under s 311 of the RMA 1991 that: (a) Condition 11 did not give the council a discretion to refuse to issue an ERA where NIL had submitted a compliant ERA application; and (b) the council's failure to issue an ERA contravened s 21 of the RMA 1991. NIL was also seeking an enforcement order under s 316 to require the council to urgently issue it an ERA. The Court encouraged the parties to participate in court-facilitated alternative dispute resolution ("ADR") in parallel with these proceedings. This was agreed to, and ADR began in January 2022. In the meantime, counsel requested that the Court make a preliminary ruling on the proper interpretation of Condition 11.

The Court was satisfied that it had jurisdiction to consider declaratory and enforcement order relief in relation to this matter. Section 31 of the RMA 1991 imposed a duty on the council as to "the control of any actual or potential effects of the use, development, or protection of land". The Court said Condition 11 was a means for the exercise of that function. Further, s 21 imposed a requirement on the council to carry out its functions "as promptly as is reasonable in the circumstances". The Court said that because the requirement in s 21 pertained to the exercise of the s 31 function, this matter could be the subject of an application for declaratory and enforcement order relief.

The Court then gave a preliminary indication of some interpretation issues. It said that Condition 11 was a certification condition that did not delegate to council officers substantive approval of the subdivision and development activities; those were activities for which consent had already been obtained and the council was now, in relation to that consent approval, *functus officio*. Condition 11 was a condition precedent to the capacity to undertake specified activities in the Subdivision Consent. If proper calculation revealed there would not be sufficient capacity for the storm event flows, NIL would be required to detail any necessary upgrades. The Court also observed that there was some uncertainty as to the meaning of "existing downstream stormwater infrastructure". It said in these circumstances, statutory interpretation principles applied to enable recourse to legitimate background materials. It noted that the Subdivision Consent decision itself shed little light on this matter.
~~~~~~

Instead, it reflected a common practice of “minimalist” reasoning and findings in non-notified delegated consent decisions, which was indicative that the consenting officers “essentially relied on what the applicant advanced” in its applications and what the reporting council engineer had recommended. The Court then analysed that evidence in the context of the council’s consenting process to aid its interpretation.

The Court made no final orders about the substantive issues in dispute. As the parties had recently undertaken ADR and had filed an initial reporting memorandum as at the date of this decision, it directed the parties to file a further reporting memorandum following this decision, including any proposed timetabling directions.

Decision Date 21 February 2022 _ Your Environment 22 February 2022

~~~~~~

Norman v Tūpuna Maunga O Tāmaki Authority - [2022] NZCA 30

Keywords: Court of Appeal; forest exotic; forest indigenous; heritage value; cultural values; kaitiakitanga; Māori values; resource consent; public notification; tree protection

This appeal concerned the removal of exotic trees from Ōwairaka, one of 14 maunga administered by the Tūpuna Maunga O Tāmaki Authority (“the TMA”). The TMA had governance of Ōwairaka in accordance with the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (“Redress Act”). It decided to remove 345 exotic trees growing on the maunga in order to restore the natural, spiritual and indigenous landscape of the maunga, and replant some 13,000 indigenous plants. Although there was no written record of this decision, it appeared to have been made based on broad strategic directions contained in the high-level “Integrated Management Plan” (“IMP”) that the TMA was legally required to prepare and consult on, as well as its annual operational plan. Auckland Council (“the council”), which was responsible for carrying out routine management of the maunga under the direction of the TMA, applied to itself for resource consent to fell the trees. This project was opposed by the appellants, A and W Norman, local residents who argued that felling so many mature trees would drastically impact the amenity of the mountain. Evidence also suggested that some of trees had heritage value due to the history of their planting. The appellants further argued that no meaningful consultation had taken place regarding the decision to fell the trees. The appellants sought judicial review in the High Court, challenging both the TMA’s decision to fell the trees and the council’s resource consent process. The High Court rejected the appellants’ grounds for review, and the appellants appealed to this Court.

The Court addressed the appellants’ first ground of appeal that the TMA had not complied with requirements under the Reserves Act 1977 (“Reserves Act”). Although ownership of Ōwairaka had vested in a trustee under the redress scheme, it was still classified as a “recreation reserve” and it was common ground that it was therefore subject to provisions in the Reserves Act regarding recreation reserves. The appellants argued that the TMA had breached sections of the Reserves Act that effectively required the TMA, when making any management plan, to conserve “those qualities of the reserve which contribute to the pleasantness, harmony, and cohesion of the natural environment”, having regard to the legislated purposes of managing recreation reserves, which included “the protection of the natural environment and beauty of the countryside”. The appellants argued that removal of the mature trees would be contrary to these requirements. The Court examined the complex interrelationship between the Reserves Act and Redress Act, noting that the Redress Act expressly provided that in the preparation of an IMP, the relevant Reserves Act provisions regarding management plans applied “with any necessary modifications”. The Court considered it was “plain” that it was necessary to modify those provisions in the Reserves Act such that the TMA was also required to comply with specific IMP requirements in the Redress Act. This had the effect of requiring the TMA, when it prepared the IMP, to consider enabling members of Ngā Mana Whenua o Tāmaki Makaurau to carry out activities for cultural or spiritual purposes, as well as recognising the members’ traditional or ancestral ties to the maunga. The Court therefore concluded that conserving the relevant qualities of the reserve, as required by the Reserves Act, must be able to include embracing
~~~~~~

revegetation, which itself would contribute to a pleasant, harmonious and cohesive natural environment. This ground of appeal was therefore rejected.

However, the Court agreed with the appellants' second claim that the TMA failed to consult before making its decision. While the Court accepted the High Court's finding that there was no statutory obligation to consult on operations that were not part of broader processes to prepare the high-level IMP and annual operational plan, the Court found that the proposed removal of all exotic trees on Ōwairaka (which represented approximately half of its mature trees) was a proposal of such significance that it needed to be provided for in the IMP. The Court acknowledged it may not have been feasible to include detailed plans for all 14 maunga in the IMP, but the TMA could have easily stated its intention to remove all exotic trees. Further, the IMP itself stated that the TMA would engage with the public to develop individual maunga plans, which would become part of the IMP once approved. The Court also found that no written material subsequently produced by the TMA made the TMA's intention plain. An annual operational plan referred to a plan to remove "inappropriate" exotic trees, but the Court said that did not convey the intention to remove *all* exotic trees. The Court concluded the TMA had not complied with its statutory obligation to consult on the IMP with regard to the tree felling issue.

Finally, the Court also agreed with the appellants' third ground that the council should not have allowed the application for resource consent to fell the trees to proceed without public notification. An independent delegate appointed by the council had determined that notification was not required because the activity was likely to have adverse effects that were no more than minor. However, the Court noted that in between the removal of the exotic trees and proper establishment of the replacement species, there would clearly be some temporary adverse effects. It found that the delegate had insufficient information regarding the nature and duration of those effects to enable him to reach a conclusion that they would be no more than minor, and that this matter had not been considered in any meaningful way. The Court also found that the delegate had inadequate information as to the heritage value of the trees to be felled; he knew only that none of the trees were listed under the Auckland Unitary Plan, and neither the council nor the TMA had approached a local historical group to make enquiries about possible heritage values, despite the large number of trees to be felled in this historic urban recreation reserve. The Court therefore concluded that the application should have been publicly notified under s 95A of the RMA 1991.

The appeal was allowed, and the decisions of both the TMA and the council were set aside. The Court ordered the respondents to pay the appellants costs for a complex appeal on a band A basis, plus usual disbursements. The Court also ordered that the High Court's order as to costs in the earlier proceedings be set aside, to be determined again in light of this Court's decision.

Decision Date 3 March 2022 - Your Environment 18 March 2022

~~~~~~

~~~~~~

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 April 2022

~~~~~~

Three Waters Reform: Working Group makes 47 recommendations

The New Zealand Herald reports the independent Three Waters Working Group has released a report that makes 47 recommendations dealing with councils' concerns around the Government's reform. Local Government Minister Nanaia Mahuta said Cabinet will carefully consider the recommendations in the report before finalising reform plans and introducing legislation. The recommendations address concerns including ownership, protection against privatisation and local voice. Read the full story here.

~~~~~~

Major Taupō housing subdivision closer to approval

Stuff reports that a proposal to convert a rural block of land in Taupō into a residential subdivision that could see the building of almost 800 new homes is closer to approval. Taupō District Council voted to accept a recommendation to approve a private District Plan change to rezone 77.79 ha of land in Nukuhau from a rural environment into a mix of general and medium density residential zones. Read the full story here.

~~~~~~

Contractor initiates adjudication proceedings over Waimea dam project

Stuff reports that the joint-venture contractor building the Waimea dam has started adjudication proceedings, which may lead to further costs for ratepayers. Adjudication was initiated in February between the contractor and Waimea Water Ltd (a council controlled organisation) under the Construction Contracts Act 2002. Read the full story here.

~~~~~~

Commissioner for the Environment's report says there is a lack of mechanisms to govern chemical use

Radio New Zealand reports that Parliamentary Commissioner for the Environment Simon Upton has released a report stating there is a lack of mechanisms to govern chemical use in New Zealand. Consequences include lakes overloaded with zinc, too much antibiotics in wastewater and unknown levels of harm to bees caused by poisoning from insecticide-dipped seeds. Read the full story here.

~~~~~~

Council backs iwi collaboration on freshwater management

Stuff reports that Marlborough District Council has backed an initiative that will involve Te Tauihu iwi in the management of freshwater. The council has made provision for $50,000 per annum for the next three financial years to assist in putting Te Mana o te Wai into practice. Read the full story here.

~~~~~~

Billion-dollar Sleepyhead project given official approval

Stuff reports that the Environment Court has officially determined that all issues regarding the billion-dollar Sleepyhead development in north Waikato have been resolved, and it can progress. In December, it was confirmed that all appeals against the decision to rezone 178 hectares of rural land at Ōhinewai, north Waikato, had been resolved, without the need for an Environment Court hearing. Read the full story here.

~~~~~~

Court of Appeal rules in favour of tree removal protesters

Stuff reports the Court of Appeal has ruled in favour of a couple who attempted to save 345 exotic trees from being felled on an Auckland maunga. Auckland residents Averil and Warwick Norman argued that the Tūpuna Maunga Authority's plan to remove the trees breached the Reserves Act and it didn't carry out appropriate consultation with the public.
~~~~~~

The Court agreed the required consultation had not been carried out and the application should have been publicly notified as required by the Resource Management Act. Read the full story here.

~~~~~~

Consenting delays in Christchurch

Stuff reports that waiting times for home building consents have grown in Christchurch, slowing housing construction and pushing up costs. Consenting delays at Christchurch City Council have worsened markedly over the past year. Read the full story here.

~~~~~~

Queenstown apartment owner claims new light pole blocking view

The New Zealand Herald reports a Queenstown apartment owner is "horrified" that a newly installed gold-coloured light pole is blocking her balcony view of the Queenstown lakefront, and fears the light spill into her apartment will be even worse. Queenstown Lakes District Council property and infrastructure manager Pete Hansby maintains the height of the new poles legally complies with national standards for shared spaces. Read the full story here.

~~~~~~

Over-burdened sewers stymies further development

The Press reports that three Christchurch suburbs face limited housing development in future because their sewerage systems are at capacity and expensive to upgrade. For most of Shirley and Aranui, Christchurch City Council says it can only accept like-for-like development and at Prestons, it can only approve housing that was originally planned. This effectively means that those areas end up being exempt from the Government's new housing intensificaiton regulations, allowing construction of three homes, three-storeys high, on urban sections without resource consent. Read the full story here.

~~~~~~

Ministry for the Environment considers national database to register old landfill sites

Radio New Zealand reports that the Ministry for the Environment is considering creating a national database and fund to protect vulnerable old landfill sites. Sites are currently monitored by local and regional councils. Read the full story here.

~~~~~~

Anglican church granted partial hearing fees waiver in building preservation dispute

Stuff reports that the Anglican church has been granted a $48,000 fees waiver by the Palmerston North City Council. The Anglican Diocese of Wellington was declined consents to earthquake strengthen and alter the front of the historic All Saints' church building after a resource management hearing early in 2020. The council then sent it the bill for the total costs of the hearing of $268,000, but the council has now decided on a compromise on costs. The appeal against the commissioners' decision stopping any work on the church building is before the Environment Court, which has ordered mediation. Read the full story here.

~~~~~~

Electric ferry makes first passenger voyage across Wellington Harbour

Stuff reports that Wellington's electric passenger ferry, the *Ika Rere*, has made its first public sailing across Wellington Harbour. *Ika Rere* is the first electric passenger ferry in the Southern Hemisphere. Read the full story here.

~~~~~~

Environment Southland's proposed Water and Land Plan court hearings continue

Stuff reports that Environment Southland and some submitters on the proposed Water and Land Plan are about to head into five weeks of court hearings about the rules and policies of
~~~~~~

the plan, after the majority of parties involved in negotiations agreed mediation was unlikely to be successful. Read the full story here.

~~~~~~

Historic Dannevirke cinema to reopen

Stuff reports that the historic Regent Cinema in Dannevirke is set to reopen after years of delays. Founded in 1919, the theatre is a category two heritage building. Read the full story here.

~~~~~~

Council side-steps mayor in climate declaration push

Stuff reports Thames-Coromandel District councillors have side-stepped mayor Sandra Goudie in a bid to get the district to sign a climate change declaration. Goudie refused to sign the local government leaders' declaration despite strong public support and a council vote in December 2021 for her to do so. Councillor Martin Rodley proposed that the council nominate and authorise another elected councillor to sign. A 7-3 majority on the audit and risk committee voted in favour of Rodley's motion.

Read the full story here.

~~~~~~

Rio Tinto wishes to operate Tiwai Point smelter past 2024

Radio New Zealand reports that Rio Tinto wishes to operate the Tiwai Point aluminium smelter past its previously signalled closure date in 2024. Rio Tinto said it believed there was a long-term future for the Bluff operation. Read the full story here.

~~~~~~

Tākaka's co-housing neighbourhood approved

Stuff reports that Tākaka's proposed co-housing neighbourhood has received resource consent. Construction on the 34-home development should start in May, taking around 18 months. Read the full story here.

~~~~~~

Marine and customary boundaries proceeding headed to High Court

Stuff reports that a two-week hearing, to decide the marine and customary boundaries of three Bay of Plenty iwi, will begin at the Wellington High Court next week. After decades of work, Whakatōhea iwi, neighbours Ngāti Awa and Ngāi Tai, received a landmark decision in May 2021 granting marine title and protected customary rights to the coastline stretching from Whakatāne to Ōpōtiki. It was the second decision to be made under the Takutai Moana Marine and Coastal Area Act 2011, but the first to include multiple iwi and hapū across a large area. Read the full story here.

~~~~~~

Disputed access to Manawatū wind farm goes to court

Stuff reports that objections to increased volumes of construction traffic using narrow roads to access the Turitea Wind Farm are being sent directly to the Environment Court. The court hearing, and any other types of conferencing or mediation it ordered, would be held in Palmerston North. Read the full story here.

~~~~~~

$11.5 million Christchurch cycleway approved

Stuff reports that Christchurch City Council has approved the design of the third and final section of the Nor'West Arc cycleway. The 4-km section will link Canterbury University to Harewood Rd, in Papanui, passing through Ilam, Burnside and Bryndwr. Read the full story here.
~~~~~~

~~~~~~

Nelson's Blue Lake faces lake snow threat

Radio New Zealand reports that Nelson's Rotomairewhenua/Blue Lake, which has the clearest water in the world, faces a threat from lake snow, an invasive diatom that blooms into a slimy, clinging algae-like substance. Tasman District Council is working alongside the Department of Conservation, Ministry for Primary Industries and Fish & Game to combat its spread. Read the full story here.

~~~~~~

Auckland developers told they will have to pay for wastewater treatment plant

Stuff reports that Auckland developers seeking to build 700 homes at Waiuku have been told they will have to pay for a wastewater treatment plant and infrastructure before the project can go ahead. Matoaka Holdings, Pokorua Ltd and Gardon Trust are seeking to rezone about 32.5 hectares of land to residential mixed housing urban. Read the full story here.

~~~~~~

Council turns down request for school site

The Otago Daily Times reports that Queenstown Lakes District Council councillors voted unanimously to decline a Ministry of Education request to use all, or part of, a property at 516 Ladies Mile for a future high school. The ministry still has the option to go through a compulsory acquisition process under the Public Works Act. Read the full story here.

~~~~~~

New Plymouth's downtown car park on council agenda

Stuff reports that more than $2 million could be spent on partially repairing New Plymouth's Downtown Car Park before it is eventually demolished as part of New Plymouth District Council's city centre strategy. The car park on Powderham St closed indefinitely in late 2020 due to earthquake risk. Read the full story here.

~~~~~~

Consents for controversial Gore bridge declined

Stuff reports that plans for a pedestrian bridge and water pipeline across the Mataura River at Gore have been declined in the Environment Court. The bridge was to be a single span pedestrian and cycle crossing, with new water pipelines linking Gore and East Gore. Read the full story here.

~~~~~~

Dispute over major Far North infrastructure project comes to an end

The Northland Age reports that a lengthy dispute over a major Far North infrastructure project has come to an end. The $5 million "Papakawau" culvert upgrade began last September, to replace the current 50-year-old culvert located on the outskirts of Mangonui. A number of Matarahurahu hapū and Kenana Marae representatives have been campaigning to change the project's name from "Papakawau" to "Tokatoka". The project is still on track to be completed by the end of the month. Read the full story here.

~~~~~~

Regional and District Plans

Auckland Council has advised the National Policy Statement on Urban Development 2020 directs the council to remove minimum car parking rate requirements (objectives, policies, rules and assessment criteria) by 20 February 2022. This change is made without using the process in sch 1 of the RMA. In accordance with s 55(2A)(b) of the RMA, the Auckland Unitary Plan (Operative in Part) and Auckland Council District Plan - Hauraki Gulf Islands Section (Operative 2018) were updated on 11 February 2022 to meet this mandatory requirement.

~~~~~~