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Legal Case-notes March 2024

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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>

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

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

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- An appeal against a decision of Queenstown Lakes District Council to refuse consent for subdivision of vineyard land in Gibbston Valley near Queenstown;
- Settlement of appeals in Waikato district relating to zoning and precinct decisions at Pokeno, south of the Bombay Hills, to allow residential zoning adjoining a concrete manufacturing site, with the plant owner's existing operations (and proposed expansion);
- Settlement of appeals against conditions of consent for subdivision to create 312 "lifestyle" properties at Ongaonga, in Central Hawkes Bay District;
- The final decision for appeals over long-running issues relating to water take and use in Wairau valley, Marlborough;
- The decision of the Supreme Court on an appeal against a Court of Appeal decision to strike out a claim against several large New Zealand corporations for purportedly causing or contributing to the adverse effects of climate change;
- A decision of the Court of Appeal concerning environmental and cultural issues arising from the proposed construction of a "green" hydrogen hub at Kapuni, Taranaki;
- An appeal against the decision of Auckland Council to grant consent for establishment of a major waste landfill near Wellsford;
- A decision on an application for a stay of an abatement notice issued by Otago Regional Council against discharge of wastewater from a milk powder processing operation.

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CASE NOTES MARCH 2024:

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Gibbston Vines Ltd v Queenstown Lakes District Council - [2023] NZEnvC 265

***Keywords**: subdivision; national policy statement; interpretation; soil high value; activity non-complying*

This matter concerned a subdivision in the Gibbston Valley involving highly productive land ("HPL"). Gibbston Vines Ltd ("GVL") had initially sought consent for a seven-lot residential subdivision and associated development but this had been declined by Queenstown Lakes District Council ("the council"). On appeal, this Court declined to grant consent in an interim decision but left reserved the capacity to grant consent for a two-lot subdivision (see *Gibbston Vines Ltd v Queenstown Lakes District Council* [2021] NZEnvC 23). GVL took up this opportunity and now proposed a two-lot subdivision, subject to conditions ("the Modified Proposal"). The lots would be 4.9 ha and 3.9 ha in size. The Modified Proposal did not include any residential or commercial building platforms, as proposed earlier. However, GVL had now also applied for a separate land use consent for construction of a winery building on Lot 1 (which was not before the Court for determination). The Modified Proposal now being determined by the Court included a consent notice condition to prohibit Lot 1 from being used solely for residential purposes (and limited to residential use ancillary to commercial activities undertaken on Lot 1). GVL had not identified any long-term use for Lot 2, but acknowledged that it was unlikely that it would be used for productive purposes beyond the short term. Another proposed consent notice condition specified that future owners of Lot 1 and Lot 2 bore the responsibility of providing any required servicing and infrastructure. It was not disputed that the Modified Proposal was a non-complying activity because it did not comply with standards in the proposed Queenstown Lakes District Plan ("PDP") relating to servicing and infrastructure.

A key issue was the site's status as HPL. The site was within a form of General Rural zoning and included LUC 3 land, meaning it was deemed HPL under the National Policy Statement for Highly Productive Land ("NPS-HPL"). The council argued that the Modified Proposal would conflict with the directive in cl 3.8 that territorial authorities must avoid the subdivision of HPL unless (among other exceptions that were not relevant here) "... the proposed lots will retain the overall productive capacity of the subject land over the long term". The council interpreted pt 3 directives, such as cl 3.8, as providing how the policies in pt 2 were to be achieved. Part 2 policies included pol 7 that "subdivision of highly productive land is avoided, except as provided in this National Policy Statement". However, the Court disagreed with the council's interpretation. The pt 2 policies were the mandatory policies required under s 45A(1) of the RMA 1991 for a national policy statement. The pt 3 directives were additional directives that "may" be included (s 45A(2)). These pt 3 directives were also stated to be non-exhaustive and limited to local authorities. While the Court was conferred with the same power, duty, and discretion in respect of the appealed decision as the decision-maker, this did not operate to extend the compass of the directives in pt 3 to the Court for the purposes of determining this appeal. The council was also "functus officio" with respect to the application before the Court, so any decision the Court made to grant consent to the Modified Proposal could not impact on the council's capacity to give effect to cl 3.8.

The Court then considered the policies in pt 2 of the NPS-HPL. Policy 7 was an avoidance policy, but would only capture the Modified Proposal insofar as the Court found that it was not "provided in" the NPS-HPL. The Court found that granting consent to the Modified Proposal would not conflict with the intentions of the NPS-HPL, particularly as expressed through the objective in cl 2.1 that HPL be "protected for use in land-based primary production" and in associated policies. The site had no melanic soils. In view of that and the site's relatively small size, it had relatively limited long-term value for land-based primary production, whether it was subdivided or not. Further, the Modified Proposal would only impede *to a minor extent* the capacity of the council and Otago Regional Council to manage HPL and prioritise and support the use of LUC 3 land. This was because the separate records of title and associated ownership changes as a consequence of subdivision made it comparatively less likely that the site could, in future, be integrally managed with any other LUC 1, 2 or 3 land. However, the Modified Proposal would not materially impede the intentions of the NPS-HPL.

In terms of the PDP, it was significant that the Modified Proposal was a non-complying activity (rather than discretionary, as the original proposal had been) and no associated development purpose was identified. This was because matters that were originally proposed to be controlled by
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the subdivision and land use consents (eg earthworks, building platforms, landscaping, etc) would now be left aside to be addressed if and when any future consent(s) for development were pursued. The Court concluded that the Modified Proposal would give rise to only *minor* adverse effects. It would not give rise to any potential adverse effects associated with any subsequent residential development because, being discretionary activities, these would later require consideration of the range of relevant effects. In the case of wineries and farm buildings, these would be controlled activities, and the matters for control would allow for consideration of a range of matters. The only adverse effects were loss of economic efficiency, being greater transaction costs for future owner(s) and, potentially, some loss of efficiency in infrastructure that serves others in the community. However, such costs would be largely internalised to those for whose benefit the infrastructure and services were in due course provided. These effects were therefore minor. The Court was also satisfied that the Modified Proposal was not contrary to PDP objective and policies. Although fragmentation of the land could render the site somewhat less able to meet objectives concerning rural resources, that was from a presently poor economic viability starting point (as the site had been unproductive for many years). Further, although the Modified Proposal did not provide for infrastructure and services, this would not materially compromise associated PDP objectives and policies because there was ample capacity on each lot to make such provision, and the activity classifications and standards that would govern any future development would require such infrastructure and services and allow for full consideration of these provisions. The s 104D threshold for non-complying activities was therefore satisfied.

Finally, the Court concluded that it should grant consent for this "simple" subdivision that would leave any future development for consideration in the associated future consenting processes. The promotion of sustainable management would not be impeded and would, to a limited extent, be assisted because granting consent would enable people to provide for their economic well-being by facilitating the two-lot subdivision and hence facilitating better use of the associated land resource. Subject to some minor clarifications on consent conditions, consent would be granted. Costs were reserved.

Decision date 7 December 2023 - Your Environment 19 January 2024

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Havelock Village Ltd v Waikato District Council - [2024] NZEnvC 1

Keywords: consent order; zoning; residential; industrial; reverse sensitivity

This consent order concerned appeals relating to the zoning and precinct provisions under the proposed Waikato District Plan (“PDP”) for a residential development at a 150 ha site on the existing urban edge of South Pokeno. Two parties, a developer and the owner of a nearby concrete manufacturing and distribution plant, had each appealed the PDP decision by Waikato District Council (“the council”). Each appellant had been opposed to aspects of the relief sought by the other in submissions on the PDP. Their differences concerned the potential incompatibility of the developer’s proposed residential zoning with the plant owner’s existing operations (and proposed expansion), as well as the potential for reverse sensitivity effects on those operations. Additionally, the developer was appealing the council’s decision to retain rural zoning for part of the site and to impose an Environmental Protection Area (“EPA”) on that part. Now, the appellants and the council had filed a joint memorandum setting out their agreement to resolve parts of the appeals. This involved amendments to the zoning, the neighbourhood “precinct” provisions (including the EPA overlay), and a number of PDP rules concerning subdivision, height and landscaping as they related to the site. The parties had provided a s 32AA evaluation of the agreed amendments. Pursuant to s 279(1)(b) of the RMA 1991 the Court ordered, by consent, that the PDP be amended as agreed by the parties. There was no order as to costs.

Decision date 16 January 2024– Your Environment 9 February 2024

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Sandra Ellmers Family Trustee Ltd v Central Hawke's Bay District Council [2023] NZEnvC 181

***Keywords**: consent order; subdivision; water supply; sewage disposal; water discharge*

This consent order concerned an appeal against two particular conditions of a resource consent that was granted to authorise the subdivision of a property at Ongaonga into 312 lifestyle lots. The disputed conditions related to potable drinking water supply and requirements for domestic wastewater. The parties had filed consent memoranda setting out their agreement to resolve the

appeal, which involved amendments to ensure potable water could be sourced from not only rainwater but also alternative sources such as ground water, and to simplify requirements for domestic wastewater. Pursuant to s 279(1)(b) of the RMA 1991 the Court ordered, by consent, that the conditions of consent be amended as agreed by the parties. There was no order as to costs.

Decision date 28 August 2023 - Your Environment 18 September 2023

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Woolley v Marlborough District Council - [2023] NZEnvC 250

Keywords: resource consent; water take and use

This was the Court's final decision concerning an appeal by P Woolley ("W") against a decision of Marlborough District Council to decline his application to transfer his remaining interest in a resource consent for the take and use of water to irrigate a new vineyard. In an interim decision, the Court had allowed the appeal and determined that the transfer sought by W should be granted (see *Woolley v Marlborough District Council* [2023] NZEnvC 206). The Court had directed the parties to confer and produce a final set of conditions, which the parties now presented. The Court was satisfied with the conditions and granted the water permit accordingly. Costs were reserved.

Decision date 15 November 2023 - Your Environment 11 December 2023

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Smith v Fonterra Co-operative Group Ltd - [2024] NZSC 5

Keywords: Supreme Court; climate change; emission; nuisance; duty of care; Māori culture

This appeal challenged a decision by the Court of Appeal ("CA") that claims in tort by an individual, M Smith ("S"), who was seeking relief against several large New Zealand corporations for purportedly causing or contributing to the adverse effects of climate change, should be struck out. S was an elder of Ngāpuhi and Ngāti Kahu, and a climate change spokesperson for the Iwi Chairs Forum. He claimed customary interests in certain land and other resources, and claimed to represent the interests of his whānau and descendants in that land. The respondents were major businesses operating in industries said to either emit greenhouse gases ("GHGs") or supply products which released GHGs when burned (such as the dairy, petroleum, and energy generation industries). S had raised three causes of action in tort: public nuisance, negligence and a proposed new tort involving a duty to cease materially contributing to damage to the climate system and the adverse effects of climate change. In 2021, the CA struck out all three causes: see *Smith v Fonterra Co-operative Group Ltd* [2021] NZCA 552. As well as finding that each claim was untenable, it had expressed the view that private tort proceedings were not an appropriate mechanism for addressing climate change, and that the problem required sophisticated regulatory responses. S now appealed that decision.

The Court firstly considered the general principles of strike out and recognised that "a measured approach to strike out is appropriate where a claim—whether in negligence, nuisance or otherwise—is novel, but at least founded on seriously arguable non-trivial harm". That was so, even if attribution to individual respondents remained difficult. The Court observed that "common law should lean towards receipt of the claim, and full evaluation based on evidence and argument at trial, over pre-emptive elimination".

The Court then addressed an initial question as to whether common law actions over GHG emissions were excluded by statute, such as the Climate Change Response Act 2002 ("CCRA 2002"). In finding that such claims were *not* excluded, the Court cited authority that if, in relation to a field of law, Parliament intended for that field to be covered entirely by an enactment, Parliament would need to make that restriction clear. Additionally, the Court observed that New Zealand's Emissions Trading Scheme neither authorised nor immunised GHG emissions; while emitters could be penalised for not complying with scheme rules, they were not "forbidden" from emitting. Further, policing the environmental effects of emissions was primarily the province of the RMA 1991 (and resort to common law actions in relation to adverse environmental effects was expressly preserved in the RMA 1991). Therefore, the CCRA 2002 did not purport to cover the entire field. Parliament had not pre-emptively excluded common law responses to damage caused by GHG emissions, and the law of torts was therefore not displaced.

The Court then considered whether the public nuisance claim was bound to fail. It agreed with two aspects of the CA's reasoning that had favoured S's case. First, it agreed that actionable public

rights had been tenably pleaded because the rights pleaded by S to public health, safety, comfort, convenience and peace provided a foundation for a public nuisance pleading. Second, it agreed that "independent illegality" was not required (ie it was not necessary that the act or omission be illegal apart from the tort itself). The Court considered the history of the development of this tort in England and then New Zealand and concluded that parallel unlawfulness was not a prerequisite in this country (nor was there any apparent policy reason why it should be, given that the tort was premised on substantial and unreasonable interference with public rights). What mattered was that the act or omission caused common injury.

However, the Court disagreed with two other aspects of the CA's decision. The first was the CA's finding that the "special damage" rule was not met because the harm suffered by the interests that S claimed to represent did not sufficiently exceed the degree of harm to many other people in New Zealand (or elsewhere in the world) who suffered from the same interference. The Court noted that the historical rationale for this rule of standing was not, in modern times, particularly convincing. The rule needed revisiting, and whether it should be revoked, retained or reformed needed to be considered in the context of full evidence and argument. In any case, S had a tenable claim to meeting its present requirements because of his pleading of damage to coastal land at Mahinepua in which he and others he represented claimed both a legal interest and distinct tikanga interests. If the interests of many others, whether proprietary or tikanga, were likewise affected, that might "say more about the gravity of the alleged tort than the propriety of entertaining it".

The Court also disagreed with the CA's finding (which the CA had regarded as fatal to S's case) that there was not a sufficient connection between the pleaded harm and the respondents' activities. Because of the many and disparate contributors to climate change, the CA had emphasised that in this case there was no identifiable, finite group of defendants that could be brought before the court to stop the pleaded harm. However, the Court agreed with counsel for S that there were numerous cases where defendants had been found to have caused public nuisances by discharging into rivers, even though other persons or businesses who were not parties to the proceedings had also done the same. Therefore, not all defendants causing or contributing to a nuisance needed to be before the court. The Court concluded that how the law of torts should respond to cumulative causation in a public nuisance case like this, involving new technologies and new harms (ie GHGs, rather than sewage and other water pollution as in earlier nuisance cases) was a matter that should not be answered pre-emptively in a strike-out proceeding, but at full trial with evidence and policy analysis.

The Court stressed that its refusal to strike out this cause of action was not a commentary on whether or not the claim ultimately would succeed. Although S had submitted that the respondents' activities accounted for a substantial proportion of New Zealand's GHG emissions, the Court acknowledged that New Zealand's emissions as a country were only a fractional proportion of the global total. This would be relevant at trial when considering whether New Zealand's law of public nuisance should sanction GHG emissions here. The Court also noted that a defendant's actions or omissions needed to amount to a "substantial and unreasonable" interference with public rights – a significant threshold for plaintiffs. The Court did not prejudge that issue here.

Given its finding on the public nuisance action, the Court considered that it was neither necessary nor appropriate to traverse the remaining claims. However, it did address a pleading by S that tikanga Māori should inform the reach and content of his causes of action, in accordance with the general proposition that tikanga should inform the common law of New Zealand generally. The CA had found that these matters did not assist in formulating a claim in tort, and that controlling climate change through regulatory means (such as the CCRA 2002) was consistent with kaitiakitanga. The Court noted that, importantly, the specific loss pleaded by S in this case was in part tikanga-based. In addressing this part of the claim, the trial court would be required to engage with tikanga and consider some tikanga conceptions of loss that were neither physical nor economic. The Court observed that this was not new and that tikanga would continue to influence New Zealand's distinctive common law as appropriate, according to the case and to the extent appropriate in the case. The appeal was allowed and S's claim was reinstated. There was no order as to costs.

Decision date 7 February 2024 - Your Environment 16 February 2024

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Greenpeace Aotearoa Inc v Hiringa Energy Ltd - [2023] NZCA 672

***Keywords**: Court of Appeal; Waitangi treaty; cultural values; effect; climate change*
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This appeal concerned environmental and cultural issues arising from the proposed construction of a “green” hydrogen hub at Kapuni, Taranaki. The proposal had been referred by the Minister for the Environment (“the Minister”) for fast-tracking under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (“FTCA 2020”), and consents were then granted in 2021 by a panel established under that legislation (“the Panel”).

The respondents, Hiringa Energy Ltd and Ballance Agri-Nutrients Ltd, had proposed to construct four wind turbines to enable wind-powered electricity generation. This would be used to produce the hydrogen and supply baseload renewable electricity at an existing plant, which presently used natural gas to produce ammonia and urea, mainly for fertiliser. The proposal was that the new “green” hydrogen would initially be used as feedstock for urea fertiliser at the existing facility. However, after five years, there would be a transition to supplying hydrogen fuel for commercial and heavy transport. This five-year transition was proposed because the hydrogen-powered transport market was still developing and hydrogen demand was expected to increase over time. The respondents said the proposed green hydrogen would offer several environmental benefits. First, the additional local urea production would reduce the need for imported urea from the Middle East and Asia, which typically had higher emissions due to its production from coal and the need for ocean transport. Second, the eventual transition to using hydrogen for transport would provide a zero-emissions fuel source alternative to fossil fuels for heavy vehicles. Further benefits were said to be increased renewable energy generation capacity (as there would be potential to also supply to the grid) and employment.

After consents were granted by the Panel, a High Court appeal was commenced by a post-settlement governance entity that was concerned about the impact of the wind turbines on the relationship of the hapū of Ngāruahine iwi to Taranaki Maunga. The appeal was unsuccessful (see *Te Korowai o Ngāruahine Trust v Hiringa Energy Ltd* [2022] NZHC 2810). Greenpeace Aotearoa Inc (“Greenpeace”) had been an interested party, and now appealed the High Court’s decision on environmental grounds. Additionally, four hapū that supported the High Court appeal and that had also been interested parties (“Ngā Hapū”) now also appealed the decision on cultural grounds. The Court considered the grounds advanced by these parties separately.

Greenpeace contended that the Panel had erred by not imposing conditions that *required* the hydrogen use to transition from urea to fuel. Greenpeace did not support the use of the hydrogen to produce urea (nor any other synthetic nitrogen fertiliser) because of its effects as a pollutant and enabler of the intensification of agriculture. The only consent conditions imposed by the Panel in relation to the transition required that the consent holder periodically *report to* South Taranaki District Council (“the council”) as to progress in achieving the transition. After five years, the council could review this condition “for the purpose of assessing progress of the transition” and/or to propose new conditions “to ensure that that transition progresses or continues”. Greenpeace said the conditions should have actually *required* the transition to occur since a critical reason for the Panel’s approval of the project was the anticipated transition to using the hydrogen for fuel. However, the majority of the Court disagreed. The justification for the project had been the *pursuit* of a successful transition, not a guarantee of successful transition. It had been clear from the consent application that the transition might not occur; ultimately, a successful transition would depend on market uptake and that would depend on factors beyond the respondents’ control. As a matter of commercial reality, this was a venture that would not have been embarked upon without the respondents intending it to be successful (and their commitment had been demonstrated by the intention to build hydrogen loading, storage and refuelling facilities as part of the project). However, success was not guaranteed. This was reflected in the Minister’s reasons for accepting the referral for fast-tracking, which referred to the project being “likely” to help improve air quality and assist New Zealand’s efforts to mitigate climate change “subject to a successful future transition”. Therefore, it was critical that the respondents pursued a transition, but not critical that they achieved it. The Panel did not intend that the project would become an unlawful activity if the transition did not occur. This was reflected in the consent conditions it imposed. The majority of the Court also observed that, if the transition did not occur after five years, there would need to be a good reason for the council to not exercise its review power. A failure to do so could be the subject of an application for judicial review.

Justice Cooper, in a minority judgment, agreed with the majority that the appeal should be dismissed. However, he disagreed with the majority’s reasons in one respect. In his view, the conditions of consent did not contemplate the possibility that the transition would not occur at all. The transition had appeared to be an essential feature of the proposal, per the application documentation. The Panel appeared to have allowed for flexibility as to *timing* only. Therefore, the

review by the council after five years could enable the imposition of new conditions designed to ensure that the transition took place, assuming difficulties had arisen in transitioning within the first five years. However, if the transition still did not occur, an essential element of the basis on which the consent was sought and granted would fall away, and it would be unlawful to continue to utilise the consent. The council could take enforcement action in that event.

Ngā Hapū's appeal grounds were focused on Treaty issues. Their concern was that the turbines would impact the relationship of Ngāruahine iwi to Taranaki Maunga by obstructing the visual and spiritual pathway to the Maunga. Ngā Hapū's key argument was that the Panel had not exercised its powers consistently with Treaty principles. Section 6 of the FTCA 2020 provided that "[i]n achieving the purpose of [the FTCA 2020], all persons performing functions and exercising powers under it must act in a manner that is consistent with—(a) the principles of the Treaty of Waitangi; and (b) Treaty settlements". This differed from s 8 of the RMA 1991 in that it required the Panel to "act in a manner that is consistent with", rather than "taking into account", the principles of the Treaty. The Court agreed that s 6 of the FTCA 2020 imposed a stronger directive than s 8 of the RMA 1991, and noted that this had been intentional on Parliament's part. It considered that s 6 constrained the Panel's power to grant a consent by requiring that the relevant considerations (in cl 31 of sch 6) were applied consistently with the relevant principles of the Treaty. This meant that if the effects on the environment would be contrary to the principles of the Treaty and could not be offset or compensated for in a manner that was consistent with those principles, the application would need to be declined.

The Court then considered relevant Treaty principles, and what the principle of active protection and exercise of tino rangatiratanga over taonga entailed. Tino rangatiratanga required the Panel to respect the views of iwi and hapū about the effect of the turbines on their spiritual and cultural values. However, in this case, those views had not been aligned; while some had opposed the project, the two hapū in whose rohe the turbines were to be located had supported it. This hapū support was evidence of Treaty consistency. The positions of these two most affected hapū (and the iwi position of the mandated post-settlement governance entity and representative body for Ngāruahine) had indicated to the Panel that the project would be consistent with the principles of the Treaty provided appropriate conditions could be negotiated. The Panel's approach in this respect was consistent with the idea that the Treaty was a *partnership* involving reasonableness and cooperation in which the rights, values and needs of one are not inevitably subsumed by those of the other and where mitigation measures may appropriately offset adverse effects. In considering this particular project, the Court said this situation could be contrasted with examples such as sewage discharge into an important fishing ground or cooling towers which would result in a significant loss of an important fishing area. Here, the landscape around the Taranaki Maunga had existing structures from development over time. In this context, the turbines had mainly low or very low adverse visual effects relative to the Maunga from the marae of the hapū who now opposed the project. Importantly, the respondents had agreed to decommissioning and an alternative site plan, if necessary, when the turbines reached the end of their life (a maximum of 35 years). A range of other mitigating measures had also been offered. The Panel had made no error in finding that the mitigation measures, including identifying an alternative site at the end of the useful life of the turbines, ensured that the project was consistent with the Treaty. The Court also rejected an argument that the Panel erred by not holding a hearing (which was optional under the FTCA 2020). In this case, the respondents had engaged with relevant iwi and hapū at an early stage, and all parties had had the opportunity to be heard and make comments. The appeal was dismissed. There was no order for costs.

Decision date 21 December 2023 – Your Environment 7 February 2024

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Te Rūnanga o Ngāti Whātua v Auckland Council - [2023] NZEnvC 277

Keywords: landfill; activity non-complying; objectives and policies; compensation; mitigate; tangata whenua; conservation

These appeals concerned a decision by Auckland Council ("the council") to grant resource consents to Waste Management New Zealand Ltd ("WMNZ") to establish and operate a new class 1 landfill in the Wayby Valley near Wellsford. The Court's decision was issued on an interim basis. Its interim conclusion was that a modified application, with modified conditions and management plans, could meet the purpose of the RMA 1991 and provisions of the Auckland Unitary Plan ("AUP").
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The proposal required numerous consents, including for land use as a non-complying activity, for discharges to land, air and water, and for reclamation. The anticipated life for the landfill, plus the construction phase, was 35 years, to be followed by disestablishment and remediation. It was conceded that the effects would be more than minor, meaning the proposal did not pass the first limb of the threshold test under s 104D(1)(a) of the RMA 1991. This was particularly in relation to the following aspects: loss of stream length and function (ie loss of 12.2 km of permanent and intermittent streams); impact upon at-risk Hochstetter's frogs (with potential loss of between 500 and 2,000 animals); impact on lizards and bats; effects on amenity; and effects on the relationships of iwi and hapū with the values of the area. Key issues in this appeal were therefore whether the proposal met the second limb of the threshold test in s 104D(1)(b) (ie whether the activity would not be contrary to the objectives and policies of the relevant plan) and the overall assessment under s 104. The decision by council-appointed commissioners to grant the consents had been finely balanced, with one commissioner (Commissioner Tepania) dissenting from the majority because of the cultural effects of the proposal.

In this decision the Court undertook detailed consideration of the relevant planning documents, including provisions of the AUP. It also considered the future need for landfill, with the Court concluding that there was going to be continuing demand for class 1 landfill in Auckland even if waste reduction strategies led to less residual waste. A detailed examination of effects then followed. Relevantly, at the start of the appeal hearing, all iwi interests had been aligned in their opposition to the landfill. However, since then, the Manuhiri Kaitiaki Charitable Trust ("MKCT") had reached an agreement with WMNZ and now supported the proposal, subject to extensive changes to the conditions of consent (which relied, in part, on draft management plans that had yet to be finalised). This included an agreement that Ngāti Manuhiri would be closely involved in the development, construction, maintenance and running of the ecological and landfilling activities on site. Ngāti Manuhiri indicated that it looked forward to working with other tangata whenua on any committees. The Court said that this change in position was relevant in assessing the cultural issues, and even ecological effects given kaitiaki involvement in restoration works. It placed some weight on MKCT's changed position, and noted that, but for that change of position and the further proposed conditions, it would have endorsed Commissioner Tepania's decision and conclusion.

In terms of whether the proposal was contrary to plan objectives and policies, the Court recognised the tension in the AUP between infrastructure and provisions directed at protecting the environment. It concluded that the relevant objectives and policies were not in conflict. They enabled certain types of use and development, provided certain environmental outcomes could be achieved. Accordingly, the Court was satisfied that the second limb in s 104D(1)(b) was passed.

The Court then undertook a substantive s 104 evaluation. Here, it could consider positive effects, offset and compensation. It identified that it needed to be satisfied that the application avoided material adverse effects from discharges to water or land. Relevant AUP provisions, such as in chs E3, E13 and E15, required a high level of satisfaction that any remedial, mitigatory, offset or compensation works achieved, maintained or improved the biodiversity or ecological function of the area. The level of certainty had to be high, given the potentially significant adverse consequences. The Court concluded that, with changes to the proposal to meet the outlined concerns and improvement of the conditions and management plans, it could be satisfied in granting consent on the basis of net biodiversity gains and protection of threatened species. When examining questions of compensation and offset, the Court was looking for an outcome that could be described ecologically as "better than that which existed before", and it accepted that determining whether that outcome had been reached and to what degree, particularly for the Hochstetter's frogs in the project area, could take some years. There was some uncertainty involved (eg in the breeding potential of the species), but the issue was whether that species would be in a better position "within a reasonable timeframe". The Court indicated that protecting an area of forest in the "Northern Valley" in the medium term would give it confidence that improvement in the frog population would occur. The Court was also satisfied that effects could be internalised to a degree that there would be no significant adverse effects on the Hōteo River and Kaipara Harbour. However, the landfill design (which was not yet finalised) would need to satisfy the Court.

The Court therefore concluded its interim decision by identifying a range of aspects of the proposal that required further work in terms of landfill design issues, protection for Hochstetter's frogs and other biodiversity issues, riparian planting, and involvement of tangata whenua on any committee alongside MKCT. Directions were made for the parties to respond.

Decision date 21 December 2023 – Your Environment 31 January 2024

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Danone Nutricia NZ Ltd v Otago Regional Council - [2023] NZEnvC 276

Keywords: abatement notice; procedural; appeal procedure; interpretation

This matter examined whether an appellant had a right under the RMA 1991 to seek a stay when filing an appeal under s 325A(7) against a decision refusing to change an abatement notice, in contrast to the appeal right under s 325(1). Danone Nutricia NZ Ltd ("Danone") operated a plant that produced infant formula products. It held a discharge permit authorising the discharge of treated industrial wastewater by spray irrigation onto farmland, subject to conditions. In 2021, Otago Regional Council ("the council") had issued an abatement notice to Danone on the grounds that several conditions were being breached, including limits on the rate and maximum volume of discharge, and a limit on the application depth of the receiving soil according to soil moisture capacity. Danone applied to the council under s 325A(4) to change the abatement notice (specifically, the date for compliance on the grounds that the deadline imposed was not possible). When the council declined that application, Danone filed an appeal under s 325A(7), which provided that a party in these circumstances could appeal "against the whole or any part of the abatement notice". The appeal was accompanied by an application to stay the abatement notice. The council opposed this application for stay.

A key dispute between the parties was whether the stay procedure in s 325(3A) was available to Danone. That procedure explicitly applied when an ordinary appeal against an abatement notice was filed under s 325(1), but the legislation was silent as to whether it applied to an appeal under s 325A(7) following a decision refusing to change an abatement notice. The Court noted that the interface between s 325 and s 325A(7) had previously been examined by this Court, and there were issues with that interface. The separate matter of the time for filing an appeal had previously been considered, and the position was not clear or precise. Earlier cases had established the need for a "generous reading" of the provisions (essentially a "filling the gaps" approach) to determine the timing requirements for s 325A(7) appeals. Turning to the present question of whether the stay procedure was available, the Court considered the complex history of legislative amendments to these provisions. It concluded that it was not possible to glean what the legislators understood about the availability of the stay procedure under s 325(3A) when s 325A(7) was amended in 2005. However, the Court was reluctant to find that Parliament had deliberately excluded the right to seek a stay for an appeal filed under s 325A(7). There was nothing to suggest that Parliament had turned its mind to this, and the history suggested this exclusion was an oversight.

The Court considered the purpose of a stay, being "to ensure that appeal rights are practically effective". Here, Danone had utilised the s 325A procedure in an attempt to resolve the disputed aspect of the abatement notice directly with the council in preference to exercising an appeal right under s 325(1). This was analogous to exercising a right of objection under s 357 before appealing under s 120. Danone would be prejudiced if it was not able to seek a stay of the abatement notice. Nevertheless, rather than "filling the gaps", the Court was willing to consider an alternative application made by Danone under r 18.10(2) of the District Court Rules 2014 ("DCR"). (However, the Court noted that this was not to avoid any deliberate decision by Parliament on the RMA 1991 provisions, given the Court's findings that it was not clear whether Parliament had turned its mind to this.) Although the application was under the DCR, the Court said it was still appropriate to consider the provisions of s 325(3D) of the RMA 1991, such as the likely effect of granting a stay on the environment.

The Court concluded, based on the evidence heard, that in this case it was unlikely that continued irrigation would result in significant increases in concentrations of nutrients. There was no conclusive evidence that the non-compliances posed an increased risk in comparison to irrigating in accordance with the consent conditions. The Court also heard that lowering production was not considered to be an effective solution; the volume of wastewater discharges was not related to production volume but rather to the cleaning of the plant, which was subject to strict hygiene protocols. Running the plant at lower capacity could even *increase* discharges because the "empty and fill" rhythm of operations would be disrupted, requiring empty equipment to be cleaned more frequently. The Court was also satisfied that, in the meantime, Danone was using its best endeavours to secure a new discharge site and a replacement permit for an increased discharge volume. The application for stay was granted pending resolution of the appeal.

Decision date 18 December 2023 – Your Environment 30 January 2024

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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

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Change of navigation reference heading from Magnetic to True North.

Extract from Coordinates E-Zine Feb 2024

Spin axis

David Learmount

The global industry is preparing to change its navigational heading reference from Magnetic North to True North. This article examines the issues involved, and provides an update on the progress of research into options for managing the transition process.

Read the article here: https://mycoordinates.org/spin-axis/

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Beehive: Labour's Three Waters legislation repealed

Local Government Minister Simeon Brown has announced that the Coalition Government's legislative plan to address longstanding issues with local water infrastructure and service delivery took an important step today, with the repeal of the Three Waters legislation.

"Repealing this legislation is a necessary first step in implementing our Local Water Done Well policy, and a key part of our Government's 100-day plan," Simeon Brown said.

"We are delivering on our commitment to restore local council ownership and control of water assets.

"I am aware that councils are in different stages of completing their long-term plans and some have already begun consultation. With local responsibility for water services restored, the legislation passed today provides much needed flexibility to councils by enabling a range of voluntary options to help them complete and adopt their long-term plans.

"Two further bills will be introduced this year to progress our policy of Local Water Done Well, with the first introduced and enacted by mid-2024, and the second introduced in December 2024 and enacted by mid-2025.

"Local Water Done Well recognises the importance of local decision-making and flexibility for communities and councils to determine how their water services will be delivered in future. We will do this while ensuring a strong emphasis on meeting rules for water quality and long-term investment in infrastructure.

"We are asking councils to lead the way in developing local solutions to our water services challenges. This includes requiring them to provide water services delivery plans that outline how they will deliver on outcomes for water quality, infrastructure investment and financial sustainability," Simeon Brown said.

Please click on the link for full statement: media release

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Beehive: More funding to Hawke's Bay and Tairāwhiti

Emergency Management and Recovery Minister Mark Mitchell has announced that urgent work to clean-up cyclone-affected regions will continue, thanks to a $63 million boost from the Government for sediment and debris removal in Hawke's Bay and Tairāwhiti.

The funding will help local councils continue urgent work removing and disposing of sediment and debris left from Cyclone Gabrielle.

"This additional funding means these regions can continue with the job clearing sediment from high priority areas," said Mark Mitchell.

"It also means work can continue to remove woody debris to prevent any further damage to infrastructure and local communities," Mark Mitchell said.

As part of the new funding, $40 million will go to the Hawke's Bay Regional Council for urgent work to continue to remove sediment and debris in the region. This includes $3 million ringfenced for debris removal in Wairoa.

"The Gisborne District Council will receive $23.6 million to ensure urgent work will continue for the processing and removal of woody debris across the region," said Mark Mitchell.

Nearly 165,000 tonnes of woody debris have been removed from Tairāwhiti.

This brings the Government's total funding to $232 million for the clean-up of sediment and debris across Hawke's Bay and Tairāwhiti.

Please click on the link for full statement: media release

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Beehive: Continuing support to community flood resilience

Minister for Emergency Management and Recovery Mark Mitchell has announced that the Government is contributing more than $15 million to support councils and communities to build flood resilience in three regions, following the 2023 severe weather events.

"Last week I announced funding of just under $12 million for Wairarapa and Northland flood resilience projects, these further projects bring the Government's contribution this year to $26.8 million across 17 projects," said Mark Mitchell.

"Three projects I am announcing today will help protect homes in areas impacted by landslides during the weather events. The projects include Tauranga's Egret Avenue and Te Mutu Crescent, ($7.3 million), Coromandel's Thornton Bay ($1.3 million) and an area in Port Waikato ($1.1 million)," Mark Mitchell said.

"A further $3.3 million is being provided for flood resilience work being undertaken by the Thames Coromandel, Hauraki, Waikato, Waitomo and Ōtotohanga District Councils. These projects include clearing waterways of storm damaged trees, removing gravel and stabilising riverbanks. Some of the waterways to be cleared include the Lake Hakanoa chanel in Huntly, the Waihou Rivers Network in Hauraki/Thames Coromandel, and rivers in vulnerable areas of the Waikato, Waipā and Waikato's West Coast.

"Clearing waterways impacted by the 2023 severe weather events will reduce the likelihood of further flooding causing damage to neighbouring communities and land.

"We are also supporting a project by Manawatū District Council ($1.675 million) to protect the water supply for residents Stanway-Halcombe rural water scheme area, including Halcombe Village.

"During the 2023 weather events, heavy rain in the Rangitīkei River affected water quality and resulted in a boil water notice for users of the Stanway-Halcombe rural water scheme. With Government support, additional treatment capability will be available, reducing quality issues caused by the washout of riverbanks. The project will also support erosion mitigation works to protect against future weather events," said Mark Mitchell.

Please click on the link for full statement: Media release

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Researchers say Cyclone Gabrielle caused 4000 landslides in Tararua

Stuff reports that University of Canterbury researchers have determined that Cyclone Gabrielle caused about 200 landslides per square kilometre in Tararua, with 4000 of those landslides mapped by researchers in an effort to create models for future weather events. The research mapped 140,000 landslides out of the estimated 800,000 that occurred in New Zealand during the cyclone.

Read the full story here.

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Montana Supreme Court denies bid to pause landmark youth climate ruling

Jan 17 (Reuters) - The Montana Supreme Court has refused to pause a landmark ruling that found that the state's policies prohibiting regulators from considering the impacts on climate change when approving fossil fuel projects violate the rights of young people.

The high court said in a 5-2 ruling on Tuesday that the state had not shown a lower court abused its discretion when it refused to stay its August ruling in favor of 16 young people who said their health and futures are jeopardized by climate change, which the state aggravates through its permitting of energy projects.

The justices said the burden was on the state to show its appeal of the ruling is likely to succeed and thus warranted a stay, but it had not shown the lower court was wrong when it said the state did not meet that bar. The justices also said the state was unlikely to be irreparably harmed without a stay.

Two of the court's seven justices said they would have granted the stay, but did not explain why.

A representative for the Montana attorney general's office said they disagree with the Supreme Court's decision but that they look forward to arguing the merits of the case before the court. Our Children's Trust, the non-profit law firm representing the young plaintiffs, said in a statement that its attorneys are preparing for the appeal.

The August decision by Judge Kathy Seeley in Helena marked a major victory in the first youth-led climate case to reach trial in the U.S.

The young plaintiffs said in their 2020 lawsuit, filed when they were ages 2 to 18, that the state's permitting of projects like coal and natural gas production exacerbated the climate crisis. That has in turn harmed them by aggravating health problems like asthma during wildfires and by causing droughts that damage the state's ranching and recreation industries that provide jobs and income to young people across the state.

Seeley said the plaintiffs have a "fundamental constitutional right to a clean and healthful environment" under a 1972 amendment to the Montana constitution requiring the state to protect and improve the environment.

The state, which filed its appeal in October, has called Seeley an "ideological judge who bent over backward" to allow the case to move forward. In its request for a stay on the ruling, the state argued the decision should be paused because it would cause "massive regulatory disruption" if left intact.

The case is one of several youth-led climate cases in the U.S. A case by young people in Hawaii against the state's Department of Transportation is scheduled to go to trial this year. A case against the U.S. government was revived in June after being dismissed by the 9th U.S. Circuit Court of Appeals in 2020.

The case is Held v. Montana, Montana Supreme Court, No. DA 23-0575.

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Environmental — Salmon Resource Management Act

Salmon Resource Management Act has been updated to include the following:

Commentary

- *Port Otago Ltd v Environmental Defence Society Inc* [2023] NZSC 112, [2023] 1 NZLR 205 - Appeal concerning the ports policy in the proposed Otago Regional Policy Statement. Held, reconciliation of any conflict between the NZCPS 2010 avoidance policies and the NZCPS 2010 ports policy should be dealt with at the regional policy statement and plan level as far as possible. However, it recognised that sometimes plan-makers did not have enough information to anticipate all conflicts. In that case, it might not be possible or desirable for a regional instrument to do more than identify the location and activities that may generate conflicts and set out general principles for addressing the conflict, leaving particular cases to be dealt with at the consent level.
- *Panel Convener v Ngati Paoa Trust Board* [2023] NZCA 412 - Appeal challenging a decision of the High Court that a panel convener under the COVID-19 Recovery (Fast-track Consenting) Act 2020 was not entitled to reject a nominated lawyer for panel membership. Held, the Court of Appeal rejected the Ngati Paoa Trust Board's argument that a decision not to appoint a person as a member of an expert panel to decide a fast-track application for resource consent was inconsistent with Treaty principles.
- *W North Ltd v Wellington Regional Council* [2023] NZEnvC 183 - Costs matter concerning a disputed abatement notice that Wellington Regional Council cancelled after it was unsuccessful in another proceeding that concerned similar issues under the new freshwater management provisions. Held, as the council had failed to perform its duties properly, a costs award was appropriate.
- *Otago Regional Council v City Care Ltd* [2023] NZDC 17492 - Sentencing on six charges relating to discharges of contaminants (namely, partially treated wastewater and odorous compounds) at five wastewater treatment plants. Held, the Court declined the application for discharge without conviction as it concluded that the consequences of the convictions would not be out of all proportion to the seriousness of the offending. The Court noted that while convictions would disadvantage the defendant, they would not disqualify it from tendering for work from public bodies.
- *Otago Regional Council v Armishaw* [2023] NZEnvC 177 - Application by Otago Regional Council to recover costs under both s 315(2) of the RMA 1991 (from having to comply with interim enforcement orders on the respondent's behalf) and s 285 (in relation to costs incurred in bringing the enforcement proceedings). Held, strictly speaking there was no need for the council to apply for costs recovery because the recipient of a permission under s 315(2) was entitled to recover the costs of complying with the orders as a debt payable to them; regarding the s 285 application, a delay by a council in filing an application for costs of almost 11 months was too long and could cause prejudice to the respondent.
- *Hastings District Council v Wrightson Contracting Ltd* [2023] NZDC 15586 - Sentencing of defendant which had pleaded guilty to breaching s 9(3) of the RMA 1991 by using land during its quarrying operations in a manner that contravened the Hastings District Plan. Held, the Court found that the offending had given rise to a serious adverse effect on the environment through the loss of the Gimblett Gravel soils and the location of quarrying.
- *Southland District Council v Manapouri Boating Club Inc* [2023] NZDC 17091 - Court considered whether to enter a conviction and discharge pursuant to s 108 of the Sentencing Act 2002. Held, the application for discharge was declined and the Court was obliged to consider a penalty.
- *Whangarei District Council v Gorbatchev* [2023] NZEnvC 167 - Application by council for new enforcement orders after previous orders had initially been complied with by the respondent, but unauthorised activity had recommenced. Held, the Court granted new enforcement orders.
- *Bay of Plenty Regional Council v Legacy Funeral Homes Ltd* [2023] NZDC 15466 - Sentencing of defendant which had pleaded guilty to one representative charge of breaching s 15(1)(c) of the RMA 1991 by discharging a contaminant (namely, cremation smoke and related particulates and gases) from industrial or trade premises into air, and one representative charge of breaching an abatement notice. Held, consenting authorities and consent applicants

need to ensure that crematoria located in residential areas have equipment and management of a very high standard.

See *Salmon Resource Management Act — What's New* for more information about these changes: Westlaw New Zealand.

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Beehive: Government to axe Auckland Regional Fuel Tax

Transport Minister Simeon Brown has confirmed that the Auckland Regional Fuel Tax will end on 30 June 2024.

"I can confirm that the Government has agreed to remove the Auckland Regional Fuel Tax in line with our coalition commitments, and legislation will be introduced to parliament to repeal the tax as part of our 100 Day Plan," Mr Brown said.

"Since 1 July 2018, Aucklanders have faced an additional 11.5 cents per litre tax on fuel, over and above what the rest of the country pays," said Mr Brown.

"Removing this extra tax of 11.5 cents per litre on petrol and diesel means the driver of a Toyota Hilux will save around $9.20 every time they fill up, while a Toyota Corolla driver will save around $5.75.

"Fuel tax is becoming an increasingly regressive form of taxation and costs people on lower incomes with less fuel-efficient vehicles more than those who have newer more fuel-efficient vehicles. We intend to fully remove the legislative framework for regional fuel taxes."

As of September 2023, around $780 million in Regional Fuel Tax (RFT) revenue had been raised, with approximately $341 million remaining unspent (the equivalent of more than two years' worth of revenue).

"The RFT was supposed to help fund important projects like Mill Road and Penlink. While Mill Road was cancelled, and Penlink received full Crown funding, Auckland Transport has used RFT revenue to fund many non-roading projects including more cycle lanes, redlight cameras, speed humps, and lowering speed limits across the city," Mr Brown said.

"I have discussed the unspent funds with Auckland Mayor Wayne Brown and signalled our intention that they are to be spent on projects which are of mutual priority to the Government and Auckland Council. These projects include the Eastern Busway, City Rail Link electric trains and stabling, road corridor improvements, and some growth-related transport infrastructure.

"Legislation removing the RFT will require Auckland Transport to only be able to use the remaining RFT revenue and unspent funds towards delivering these projects," said Mr Brown.

Please click on the link full statement: media release

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Southern mayors call on govt to provide solutions to rates rises

07/02/2024

RNZ reports that a group of southern mayors is urging the government to come up with solutions to a looming decade of large rate hikes, especially with the cost of Three Waters infrastructure back on books. Clutha Mayor Bryan Cadogan says ratepayers are facing "unprecedented financial hardship" from escalating rates that could be push them into bankruptcy.

Read the full story here.

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Bach owners allowed to remain on conservation land - for now

RNZ reports that the Department of Conservation (DOC) has given West Coast bach owners permission to remain on conservation land, pending a review of the West Coast Conservation Management Strategy (CMS) in the next year. The DOC said earlier this year that the ongoing use of family baches on conservation land was "a privilege, not a right", even though some baches have been owned for generations.

Read the full story here.
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One in five of world's migratory species at risk of extinction - UN report

SINGAPORE, Feb 12 (Reuters) - More than a fifth of the world's migrating species are at risk of going extinct as a result of climate change and human encroachment, according to the United Nation's first-ever report on migrating animals published on Monday.

Billions of animals make journeys across deserts, plains or oceans every year to breed and feed, and "unsustainable" pressures put on migratory species could not only see their populations dwindle, but also disrupt food supplies and threaten livelihoods, the report said.

Of the 1,189 species covered by a 1979 U.N. convention to protect migratory animals, 44% have seen numbers decline, and as many as 22% could vanish altogether, the report added.

The numbers were based on assessments and data provided by the International Union for the Conservation of Nature (IUCN) as well as the Living Planet Index, which collates population numbers for more than 5,000 species from 1970 onwards.

The report, released on Monday, gives "a very clear direction" about what governments need to do to tackle the threats to migratory species, said Amy Fraenkel, executive secretary of the U.N. Convention on the Conservation of Migratory Species of Wild Animals.

"It's always about implementation," she said ahead of the convention's meeting, held this week in Samarkand, Uzbekistan.

Humans pose the biggest threat, with activities including hunting, fishing and other forms of overexploitation impacting 70% of the species on the U.N. list.

Habitat loss affected up to 75% of the species - underlining the need for more connectivity between isolated ecosystems. The report's authors urged governments to avoid disrupting habitats and migration paths when installing infrastructure such as dams, pipelines or wind turbines.

"We need to look at the top levels of government decision making," said Fraenkel "and what is being planned so that we can make sure that we can ... address human needs while not sacrificing the nature we all need to survive."

The pressures are being compounded by temperature changes, which disrupt the timing of migrations, cause heat stress and drive increasingly destructive weather-related events such as drought or forest fires.

"The changes that had been already predicted some years ago are now happening," Fraenkel said.

Parties to the Convention meet every three years to review new species to add to its watchlist. Among the animals being considered at this week's Samarkand meeting will be the giant Amazon catfish.

The agency will also launch a new program to provide technical assistance for countries to protect habitats more effectively, Fraenkel said.

Conservationists urged governments to honour their 2022 pledge under the new global biodiversity agreement to set aside 30% of the world's land and sea territories for nature by 2030.

"If governments do everything they have committed to do, then the next (U.N. report) will have some good news," said Susan Lieberman, vice-president of international policy at the Wildlife Conservation Society, who is attending the Samarkand meeting.

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Environmental groups call Govt's proposed 'fast track' consents "a war on nature"

The *New Zealand Herald* reports that environmental groups WWF-New Zealand, Greenpeace Aotearoa, Forest & Bird and Environmental Defence Society say the Government's proposed bill to "fast track" consents could bypass environmental protections allowing new development and commercial projects with little oversight. The group said the Government "has launched war on nature and this bill is part of it".

Read the full story here.

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New species of gecko discovered on Auckland's west coast

Newshub reports that a new species of gecko has been discovered along Auckland's west coast. The endangered species, named by local iwi as the 'Korowai', has a population of just 32 individuals. An Auckland Council senior ecologist said the Korowai is incredibly vulnerable to predators and to locals going off the beach and into the dunes.

Read the full story here.

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$10,000 reward offered for confirmed sighting of kōkako

Newshub reports that the South Island Kōkako Trust is offering a $10,000 reward for a confirmed sighting of a kōkako, a songbird thought-to-be-extinct until a recent possible sighting on private land about 13km west of Tuatāpere. The South Island bird was listed as extinct until 2013, when the Department of Conservation reclassified it as data deficient.

Read the full story here.

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Recycling rules change nationwide

RNZ reports that recycling rules changed nationwide for all district and city councils as from February 1. The rules change is part of a new initiative to standardise the recycling service across the country by 2027. Clutha, Hurunui, Westland and Gore District Councils were unable to meet the deadline, but have until 2027 to do so.

Read the full story here.

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Bach owners allowed to remain on conservation land - for now

RNZ reports that the Department of Conservation (DOC) has given West Coast bach owners permission to remain on conservation land, pending a review of the West Coast Conservation Management Strategy (CMS) in the next year. The DOC said earlier this year that the ongoing use of family baches on conservation land was "a privilege, not a right", even though some baches have been owned for generations.

Read the full story here.

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