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**Legal Case-notes August 2019**

Feedback Please! Any Feedback? Drop us a note!

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

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

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

- An unsuccessful appeal against an authority issued by Heritage New Zealand Pouhere Taonga to modify or destroy two middens to enable development of an existing residential site on the north shore of Whangarei Harbour;
- A costs decision against Auckland Council's refusal to demolish an unsafe heritage building at Mt Eden;
- Two cases, involving prosecutions by Otago and Canterbury regional councils of companies which had undertaken earthworks resulting in discharge into rivers;
- A decision on costs resulting from a controversial attempt by a neighbour to prevent the owner of a property at Titirangi, Auckland removing a kauri tree so that they could build a house on their site;
- A case involving an application for discovery of documents associated with non-notification of an application by a company to establish a film and video production studio at Papakura adjacent to a proposed dairy processing activity.

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**CASE NOTES August 2019:**

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**Ngāti Pukenga ki Pakikaikutu and Pakikaikutu 2C2W Papakainga Trust v Heritage NZ Pouhere Taonga** _ [2019] NZEnvC 109

***Keywords: heritage value; archaeological site; residential***

This was an appeal under the Heritage New Zealand Pouhere Tāonga Act 2014 ("HNZPTA") against an authority ("the Authority") issued by Heritage New Zealand Pouhere Taonga ("HNZ") to modify or destroy two archaeological sites (middens) to enable land to be developed for residential purposes. The land covered by the Authority was a 1970 site at 1F Tayden Court, Tamaterau ("the site"), on the north side of Whangarei Harbour. The appellants sought to re-instate the midden and not disturb it.

The Court stated that it was clear that not only the site but the wider area was of significance to the appellants, who had ancestral connections to the area and felt strongly about the level of development that had occurred over the years which resulted in destruction of archaeological and other significant sites. The appellants contended that the site included not only middens but an archaeological platform.

The Court considered its powers under ss 58 and 59, and ss 3 and 4, of the HNZPTA, in addition to relevant case authority as to its jurisdiction under that Act compared with its jurisdiction under the RMA. After considering detailed information as to the history of the area, and evidence as to archaeological sites and features, the Court concluded that the site did not

comprise an archaeological platform. The site was part of a subdivision consented to by Whangarei District Council in 1996, and under the district plan a dwelling could be constructed as a permitted activity. While acknowledging that surrounding archaeological sites were of cultural significance, they were not within the site and not included in the Authority. Regarding jurisdiction, the Court was empowered to review the decision by HNZ and to confirm, reverse or modify it according to the statutory purpose and principles. The Court noted that case authority had established that the principles of the HNZPTA did not necessarily require the retention in situ of all archaeological remains.

The Court considered the appropriateness of the conditions attached to the Authority and the limit on the physical extent of the authorised works, bearing in mind that the subdivision and subsequent development on the land surrounding the site had occurred, which had the result that the area had the appearance of a residential enclave. The Court acknowledged the relationship of Māori with the site and the wider area but did not consider that the middens at issue were of such historical or cultural heritage value as to prevent the reasonable use of the site for lawful purposes, enabled by the 1996 subdivision. The Court considered that the interests of persons directly affected had been considered and that the terms of the Authority made some provision for such interests. Having reviewed the Authority and the conditions, the Court confirmed the Authority, subject to amendments to conditions 2, 7 and 9 as specified.

Decision date 8 July 2019 Your Environment 9 July 19

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**View West Ltd v Auckland Council** _ [2019] NZEnvC 95

***Keyword: costs***

The Court considered an application for costs by View West Ltd ("View West") against Auckland Council ("the council"). The application followed View West's successful appeal against the council's refusal to grant consent to demolish the Sunday School Hall ("the Hall") at 31 Esplanade Rd, Mt Eden ("the site"). The council had granted consent for the renovation and partial demolition of the church on the site, but declined to permit demolition of the Hall. The site was a historic place under the Auckland Unitary Plan ("AUP") and both the Hall and church were heritage buildings. On 14 December 2018 the Court granted consent for demolition of the Hall as a matter of urgency to avoid safety issues to the public and adjacent properties. Subsequently the Hall was destroyed by fire. The final decision was issued on 5 February 2019, by which the Court set out the terms of the demolition consent. View West now claimed costs of $480,820 (excluding GST), including expert witness costs of $100,000, and sought a contribution of 50 per cent, being $240,410, towards such costs.

The Court reviewed the history of the proceedings, noting that the council, despite being aware of concerns about the safety of the Hall, had put forward an alternative proposal to demolition, although it was unable to suggest any party who might undertake such work. The Court considered the principles and relevant case authority applying to its discretion to award costs under s 285 of the RMA and the Environment Court of New Zealand Practice Note 2014. View West submitted that a contribution greater than the normal "comfort zone" of 25-33 per cent was justified on grounds including: the complexity of the matter, under the RMA and the Building Act 2004 ("the BA"); the important issues of public health and safety and of historic heritage; the number of expert witnesses required; and the length of the hearing. Furthermore, View West submitted that the council's position was unreasonable and blameworthy because: it failed to produce the original dangerous building engineering report and failed to appreciate the public safety risk; failed in its decision to consider the Dangerous Building notice; misinterpreted its own AUP policies and sought to rely on an indefensible position; and continued to advance the alternative scheme where there was no support for it and it was unjustified.

The Court considered whether the council was blameworthy. The council had identified the Hall as a dangerous building in 2012 but had not identified what works were to be undertaken as a response. From all times between 2012 and December 2018 the Hall was a dangerous building and no competent person had identified any remedial works that would change that. The Court stated that its previous decisions showed that the council had lost sight of the fact that it was dealing with a dangerous building and became focused on issues of heritage protection. It failed to recognise its duties under the BA and to identify such duties in its dealing with View West and failed to undertake one of its fundamental duties under the Local Government Act to provide for safe buildings. In doing so, its actions could only be regarded as blameworthy. Further, it appeared to have taken action to see how the demolition of the hall might be delayed, rather than considering its duty to protect public safety, and further sought to minimise the
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public safety risk. The council's action in embarking on a long process of identifying alternative remedial action for the Hall was unmeritorious in terms of heritage protection and warranted an order of costs. In addition, the council misinterpreted its own plan provisions. The Court now clarified the wording and meaning of the specified provisions.

Turning to consider quantum, the Court was satisfied that clarity on specified issues might have reduced the hearing time considerably. In the end the Court considered the matter in broad terms and concluded that this was not a case for costs to be awarded much beyond the comfort zone. The council should make a reasonable contribution to costs to recognise the significant extra time and evidence involved both for the dangerous building issue and the wording of the AUP provisions and the alternative scheme argument. Overall, the contribution should be at the higher end of the range, approaching one third. The council was accordingly ordered to pay costs in the sum of $160,000 to View West.

Decision date 20 June 2019 Your Environment 20 June 2019

*(See previous report in Newslink March 2019 - RHL.)*

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**Canterbury Regional Council v Rutherford** _

***Keywords: prosecution; earthworks; river; discharge to land; discharge to water; enforcement order***

J Rutherford ("R") was sentenced in the District Court, having pleaded guilty to six charges laid by Canterbury Regional Council ("the council"). The charges related to works undertaken unlawfully by R in and in relation to the bed of the Waiau River ("the River") between 10 January and 9 March 2017. R was director and shareholder of related companies which owned and farmed land on the bank of the River. The works were undertaken for the purposes of developing 70 hectares of the farm ("the area"). Acting on a complaint, council officers visited the farm and saw that heavy machinery had been used to level, plough and grade the land and that native vegetation and other plants had been removed and destroyed, resulting in sediment discharge to watercourses.

The Court addressed the sentencing principles as established by the Sentencing Act 2002 and case authority. R had undertaken the unauthorised works deliberately; the facts disclosed that he had been informed prior to the offending that the council regarded the area as riverbed and the works were unlawful. The Court stated that R's election to proceed was irresponsible. Further, the physically intrusive nature of the offending over such a large area of highly valued environment went towards R's relative culpability. The Court found on the facts that the works were for the commercial purpose of achieving a more intensive farming operation and R had been highly careless, bordering on reckless, and his culpability was moderately serious. The environment affected by the offending was likely to be remediated by the plan agreed with the council which would mitigate, but not eliminate, the adverse environmental effects.

After a review of comparable cases, the Court rejected the council's submission that the offending should be considered as three components, which the Court said was artificial. Instead, the Court treated the offending as a single *actus reus* and adopted a global approach to set a starting point. The Court declined to take into account the fact that R expected to incur costs of $130,000 for the remediation plan. Such costs were secondary to the matter of relevance which was the environmental harm consequences of the offending. The fine imposed, along with the enforcement order for remediation, had the important purpose of denouncing R's conduct and sending a general message of deterrence to others. The Court stated that the environment suffered and the community lost something precious when such an intrusion in a riverbed occurred. However, the Court accepted that it was appropriate to treat the enforcement order in totality for sentencing purposes as it imposed a form of penalty. The starting point was set at $40,000. A five per cent discount for all charges, other than the sediment discharge, was given for a guilty plea entered on the eve of the hearing. A 25 per cent discount was given for the sediment charge. A further five per cent was allowed for previous good character. The total fine imposed was $34,000. The terms of the enforcement order were as set out in the decision.

Decision date 4 October 2018 Your Environment 8 October 2018

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**Otago Regional Council v Northlake Investments Ltd** _ [2019] NZDC 11710

**Keywords:** prosecution; discharge to land; discharge to water; river

In the District Court, Northlake Investments Ltd ("Northlake") pleaded not guilty to a charge laid by Otago Regional Council ("the council") under s 15(1)(b) of the RMA, namely that it unlawfully discharged contaminants (silts and sediments) onto land where these may have entered water, being the Clutha River. Northlake, which was part of the Winton group of property developing companies, owned a property at 762 Aubrey Rd, near Wanaka ("the site"). A natural flowpath ran through the site and at the eastern end ran under a road and discharged onto land owned by Exclusive Developments Ltd ("EDL") and from there eventually to the Clutha River. Northlake held earthworks and subdivision resource consents from Queenstown Lakes District Council ("QLDC") allowing it to undertake a subdivision at the site. The earthworks consents contained conditions relating to dust control and sediment and erosion control measures. The consent applications and the conditions recognised that it was important that bulk earthworks were staged to minimise the area of work which would be "open" (stripped of turf and topsoil) at any time and that, as lots were developed, they would be re-topsoiled and seeded to establish a stabilising cover. The site management plan ("SMP") set out the methodology for this and also procedures for high rainfall or wind events.

In July 2017, after heavy rainfall, QLDC became aware that sediment was discharging from the site to EDL's land. After a further heavy rainfall event on 17-18 August 2017, silt from the open areas on the subdivision on the site entered the flowpath and stormwater systems and discharged eventually into the Clutha River, causing a visible change in the colour of the water. Northlake's defence was that the council had to prove beyond reasonable doubt that Northlake failed to take the reasonable precautions of a prudent developer to prevent the discharge and also that Northlake, being aware that sediments might discharge into the Clutha River, failed to investigate and take appropriate preventative measures. Northlake contended that it was entitled to rely on specified reliable local contractors and engineers to manage the development on its behalf.

The Court considered the history of the proceedings, the applications, the consents and the SMP, noting that there was an open area of topsoil of about 20 hectares on the site as at 17 August 2017. The Court considered the elements of the prohibition in s 15(1)(b) of the RMA and the meanings of "discharge" and "contaminant" in s 2. The Court was satisfied on the evidence beyond any doubt that: silt and sediment from the site entered the Clutha River and changed the physical and biological conditions of the river water and constituted a contaminant as defined; that there was a discharge of silt and sediment and sediment-laden water from the site onto land; and that such discharges occurred in circumstances which might have resulted in such contaminants entering the Clutha River. Further the discharges were not "expressly allowed" by any rule in the regional plan or any other instrument.

The Court considered Northlake's defence and the relevant provisions of ss 338, 340 and 341 of the RMA. The Court observed that Northlake was charged as the person directly responsible for the offences, not on the basis that the offending was done by its agents. Further, under s 341(1) of the RMA it was not necessary to prove that a defendant intended to commit or permit an offence. The Court noted case authority from higher courts that there had been a limited relaxation of the strict liability provisions of s 341 regarding discharges involving the concept of "allowing to escape". Nevertheless, the Court was satisfied beyond reasonable doubt that in the present case Northlake had not taken reasonable precautions of a prudent developer to prevent the discharge from the site and, having an awareness of the risk of discharge into the Clutha River, had not investigated or taken proper preventative measures. A prudent developer would not had allowed virtually the entire subdivision area to remain open as winter approached without reviewing the SMP. The Court found that the SMP was no longer fit for purpose in May 2017 and should been subject to intensive review at that time in order to investigate the adequacy of silt and sediment control measures. The Court acknowledged that Northlake had initiated a review after the August discharge and prepared a new SMP. However, it was Northlake's obligation to ensure that the SMP was fit for purpose at any given time and it failed to do that. Furthermore, the Court found there was no doubt regarding the causal connection between the actions of Northlake and the discharge. The Court was satisfied beyond reasonable doubt that Northlake was a person which discharged the offending sediment as contended by the council on 17 and 18 August 2017. The Court convicted Northlake accordingly.

Decision date 4 July 2019 Your Environment 5 July 2019

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**Maehl v Lenihan** _ [2019] NZEnvC 108
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***Keywords**: **costs; tree protection; enforcement order***

The Court considered the application for costs by the Greensmith Family Trust ("the Trustees") against A Maehl and W Charlesworth (together "the respondents"). The application followed the decision of the Court on 3 April 2019 to discharge an interim enforcement order and dismiss an application for permanent orders relating to the preservation of a kauri tree situated on the Trustees' land. The Trustees advised the Court that the respondents had been ordered to pay costs in High Court proceedings of $9,366, but this was not yet paid. The present application related only to the Environment Court proceedings. The Trustees now sought legal costs of $44,514 being the entire costs of preparing for and conducting the hearing.

The Court considered the principles relevant to its discretion to award costs under s 285 of the RMA, noting that where enforcement orders were sought it was more likely that the Court would award costs than in other cases. In the present case, the rights of a private property owner were impinged upon in the interim order and the permanent order sought to extend that effect. The respondents submitted that they and others represented an aspect of the public interest. However, they were neighbours of the Trustees and their property had been developed, while that of the Trustees remained undeveloped due to the proceedings. While there was clearly a broad public interest in kauri trees, the Court could not say that the respondents were pursuing such broader issue rather than acting as an affected neighbour. This was not a case where there was a merit to the substantive argument of the respondents; it was clear that the felling of the tree was a permitted activity under the district plan. It was difficult to see that the respondents acted reasonably in seeking to maintain the order. The Court was satisfied that in the circumstances the position of the respondents was clearly untenable.

Regarding quantum, the Court did not consider that full reimbursement of costs was warranted, having regard to: the elements of public interest in retention of the tree; elements of delay by the Trustees; and the general reluctance of the parties to engage in constructive resolution of the matter. Nevertheless, the impact on the Trustees was significant and unjustified. In such circumstances, the Court made an order above the normal comfort zone but less than full indemnity of costs. Accordingly, the respondents were ordered jointly and severally to pay the Trustees $30,000.

Decision date 4 July 2019 Your Environment 8 July 2019

(See Newslink case-notes, August 2017 and June 2019 – RHL)

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**Tonea Investments (NZ) Ltd v Auckland Council** _ [2019] NZEnvC 107

***Keywords: procedural; discovery of documents; declaration***

The Environment Court considered the application by Alpha Dairy NZ Ltd ("Alpha") for access to court documents in a proceeding to which Alpha was not a party. The proceeding concerned the application for a declaration made by Tonea Investments (NZ) Ltd and Studio New Zealand Ltd (together "Tonea") that the creation/manufacture of motion pictures to be conducted at 296 Porchester Rd, Takanini ("the site") was an industrial activity under the Auckland Unitary Plan. Tonea also applied for a confidentiality order in relation to the fact of and contents of the declaration application, for reasons of commercial sensitivity. The Environment Court granted the confidentiality order and the declaration by its decision of 5 April 2019 ("the decision"). Alpha's present application was based on the fact that it was not notified of the declaration application and, along with all members of the public, was excluded from participating in the proceedings. Alpha intended to develop and carry on a dairy milk business at Popes Rd, Takanini and, prior to Tonea's application for declaration, had applied for judicial review of Auckland Council's decision to process a resource consent application by Tonea to allow construction of a film studio on the site. Alpha raised issues of reverse sensitivity and amenity.

The Court considered the application under the District Court (Access to Documents) Rules 2017 ("the DC Rules 2017") and stated that the issues were whether: Alpha should be granted access to the court documents; and, if so, what conditions should attach to the release of such documents. Rule 8(1) of the DC Rules 2017 provided a general right to any member of the public to access the formal court record, as defined; this was however limited by r 8(3) which provided that any document relating to a proceeding from which the public was excluded might be accessed only if a Judge permitted, the process for which was set out in r 11. The Court, after considering submissions by the parties, now considered Alpha's application against the matters listed in r 11 of the DC Rules 2017, finding as follows: the orderly and fair administration of justice was not invoked as there was no issue of undue media attention; any commercially
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sensitive information could be redacted and there were no other commercially sensitive or privacy issues which justified restrictions on the principles of open justice; there were no issues of privacy, confidentiality or privilege raised; in the interests of open justice it was appropriate that Alpha be given the opportunity to fully appreciate the circumstances in which the declaration was made; and the freedom to seek information was core to New Zealand's justice system and recognised by the New Zealand Bill of Rights Act 1990. In addition, the Court accepted that it was appropriate to take into account: that Alpha's ongoing litigation with Tonea regarding the same general matter had been affected by a decision of which Alpha was not informed; and the principle of natural justice, where Tonea was seeking to rely on the declaration in the decision to seek resource consent for the activity. Accordingly, the Court was prepared to grant Alpha's application for access to the documents on the court file.

Regarding the conditions that should attach, the Court made directions that the access was conditional on Tonea first having the opportunity to outline which parts of the documents were genuinely commercially sensitive and should be redacted. The Court would then review the redactions made to determine whether they were appropriate and, if they were, the Registry would arrange for Alpha to view the redacted documents.

Decision date 2 July 2019 Your Environment 3 July 2019

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

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

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## Other News Items for August 2019

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### Housing Accords and Special Housing Areas (Queenstown-Lakes) Amendment Order 2019 (LI 2019/140)

This order, which comes into force on 28/06/2019, amends the *Housing Accords and Special Housing Areas (Queenstown-Lakes) Order 2017* to declare 2 additional areas in the Queenstown-Lakes District to be special housing areas for the purposes of the *Housing Accords and Special Housing Areas Act 2013* (the Act).

This order also specifies, for each new special housing area, the criteria that a development in the new special housing area must meet to be a qualifying development for the purposes of the Act. Those criteria, which are additional to the requirement under the Act that the development will be predominantly residential, relate to—

- the maximum number of storeys that buildings in the development may have and the maximum height they may be:
- the minimum number of dwellings to be built.

This order does not prescribe affordability criteria for the new special housing areas.

See also Queenstown-Lakes District Council's website for more information about special housing areas in the district.

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### Cook Islands: Controversial new land law passed

*Radio New Zealand* reports a new law passed in the Cook Islands that allows government project managers to enter private land without prior notice to investigate possible new infrastructure, alterations or maintenance is causing concerns amongst the country's chiefs,
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who argue that they have lost their mana in determining such issues. The Infrastructure Act passed parliament unanimously, but the ariki - chiefs who represent different islands in the Cooks - said that despite being representatives of the country's customary land owners, they were not consulted. - Read the full story here.

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### Who are your waters?

Jacinta Ruru, professor of law at the University of Otago and Co-Director of Ngā Pae o te Māramatanga, New Zealand's Māori Centre of Research Excellence, comments on the conflict between the New Zealand legal system and Māori customary law over water ownership, and the recent significant progress towards co-existence and recognition. - Read the full analysis here.

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### Accidental stream owners stuck with tree issue

*Stuff* reports property owners in Palmerston North who discovered after purchase that the boundary of their property extends to the middle of a stream are facing a $10,000 bill to manage old trees bordering the stream that pose a flood risk. Certain that the land and stream bed between their boundary and that of their neighbours must be public land, the owners consulted Land Information New Zealand and Crown Property New Zealand, who advised them that there is a piece of common law called "ad medium filum aquae" which holds that unless good reason exists, there is a presumption that properties next to a river or stream own the land, all the way to the mid-line of the stream bed. - Read the full story here.

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### Foreign buyers to pay $3 million in penalties for unlawful land purchases

*Share Chat* reports the High Court has ordered foreign buyers who breached the Overseas Investment Act by buying rural property without the Overseas Investment Office's consent to pay pay $2.95 million. - Read the full story here.

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### Overseas firm ordered fined and ordered to sell illegally-acquired land

*Radio New Zealand* reports the High Court has fined an overseas-owned investment company behind a subdivision for 117 homes in Auckland $300,000 plus costs and ordered them to sell the properties after buying the land without permission. The 5ha of sensitive land is located next to a reserve. - Read the full story here.

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### Government proposal for fuel-efficient vehicle policy

*Stuff* reports that the Government is proposing to impose a fee on imported high-emissions cars in order to make imported hybrids, electric cars, and other efficient vehicles cheaper with a subsidy. The policy would apply to newly-imported used and brand new light vehicles from 2021. Read the full story here.

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### Local authorities to choose dump sites more carefully after Fox River catastrophe

*Radio New Zealand* reports that local government authorities are thinking more carefully about where they deposit rubbish near waterways in the wake of flood-caused landfill slips which resulted catastrophic rubbish spills near the Fox and Grey Rivers. Climate change and sustainability consultant Chris Karamea Insley said toxic sites near rivers were known about and known to be a problem before climate change concerns became topical. Read the full story here.

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### Westland DC spent $3.8m on storm damage damage clean up

*Radio New Zealand* reports that the clean up of storm damage may cost Westland District Council up to $3.8 million. The council's chief executive Simon Bastion says the cost of dealing with recent storm damage was beyond the resources of a district of only 6,500 ratepayers. He denies the allegation by the Conservation Minister that the council's financial management is
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poor. Read the full story here.

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### $2.4m campaign to eradicate pests in Miramar

*Radio New Zealand* reports that Predator Free Wellington has undertaken a $2.4 million project, funded by the city and regional councils and others, to eliminate pests from the urban area of Miramar in Wellington by December. The programme will use traps laid by local volunteers placed on a grid across the peninsula. Read the full story here.

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### Wallabies worry Central Otago farmers

*Radio New Zealand* reports that farmers in the Maniototo and the Otago Regional Council have expressed concerns about the rise in the wallaby population and are considering possible measures to control the marsupial pests. Read the full story here.

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### Wanaka hotel built in China

The *Otago Daily Times* reports that the new $12.47 m, 35-room boutique hotel in Brownston St, Wanaka is being constructed in modular form in China. The 44 modules will be shipped from China and assembled on the Wanaka site. The assembly is estimated to take five days. Read the full story here.

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### Marsden Point $39m solar farm proposed

*Radio New Zealand* reports that Refining New Zealand hopes that the proposed $39 million solar farm, next to the oil refinery at Marsden Point, will result in significant savings on the refinery's power bill, as well as cut emissions as required by the Government. Read the full story here.

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### Central Otago DC makes millions from Cromwell subdivision

The *Otago Daily Times* reports that the joint venture between Central Otago District Council and AC/JV Holdings Ltd to create a 78-lot residential subdivision in Cromwell has produced proceeds of over $5 million for the council. Read the full story here.

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### Takapuna Town Square revamp approved

*Auckland Now* reports that Auckland Council has approved the redevelopment plan for the site of Takapuna's Anzac Street car park, where Panuku proposes to construct new offices, apartments and a town square. Read the full story here.

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### Australian building products certifier suspended by MBIE

*Radio New Zealand* reports that the Ministry of Business, Innovation and Employment has suspended CertMark International from certifying any further building products, including aluminium cladding panels, in New Zealand on the ground that it failed to meet the requirements the Codemark certification scheme. Read the full story here.

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### Wellington Library earthquake work costed at $100m

*The Dominion Post* reports that Wellington Library building, which was closed earlier this year due to seismic engineering concerns, might cost more than $100 million to repair, said Mayor Justin Lester. Read the full story here.

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### NZLS: IRD number to be needed on land transfer documentation

From 1 January 2020 an IRD number will be required on nearly all land transfers, following the tabling of Supplementary Order Paper 248 in Parliament by Revenue Minister Stuart Nash.
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The SOP was tabled during debate on the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill.

The SOP amends s 79 of the Land Transfer Act 2017. Its effect is that before a transfer of land can be registered, the seller and purchaser must lodge a tax statement (except in some limited circumstances such as land transfers under a Treaty settlement or by a local authority).

Generally, the tax statement must include the seller's or purchaser's IRD number and information relevant for overseas tax purposes. However, if it is a non-notifiable transfer, that information does not have to be included. Currently, the most common kind of non-notifiable transfer is the transfer of an individual's main home. Please follow the link for the full statement. media release

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### NZLS: Home insulation requirements from 1 July 2019

From 1 July, all rental homes in New Zealand must meet ceiling and underfloor insulation standards. The Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 set out the requirements. Landlords will also have to provide an insulation statement on new tenancy agreements. Please follow the link for the full statement. media release

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### Wool insulation for Pamu farm houses

The *Otago Daily Times* reports that Pamu Farms of New Zealand, the country's biggest farming company, has decided to upgrade its farm houses in the South Island with wool insulation. Chief executive Steve Carden said that wool's environmental impact was minimal and the insulation will be undertaken using recycled wool. Read the full story here.

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### Surge in complaints to Tenancy Services following insulation law change

*NewstalkZB* reports Tenancy Services has received more than 300 calls from tenants, with 21 opting to take their landlord to the Tenancy Tribunal, following a recent law change which requires rental owners to insulate floors and ceilings "if practicable". - Read the full story here.

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### Foulden Maar mining applicant goes into receivership

*Radio New Zealand* reports that Plaman Resources, which owned and was seeking to mine the land in Otago containing the archaeologically significant Foulden Maar 23-million-year-old crater lake site, has gone into voluntary liquidation. Read the full story here.

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### Fears of radioactive leakage in Marshall Islands _

*Radio New Zealand* reports that the Pacific Island Forum had demanded an independent audit of a concrete nuclear dome used to store nuclear waste on an island in Enewetak Atoll after the atomic bomb tests in the 1950s and 1960s. Concerns have been raised that the 18-inch dome is leaking radioactivity. Read the full story here.

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### NZLS: Building law reform consultation closes

MBIE's two-month consultation period for the proposed building law reforms has closed. It says it received 470 submissions from people and organisations across the building and construction sector.

The proposed reforms cover five key areas and focus on improving the quality of building work:

**Building products and methods:** MBIE says there are gaps in current regulations and disincentives that make the building regulatory system less efficient. The changes propose increasing the quality of information about building products, holding people to account for building products and their use, and reducing the risk of defects in building work.

**Occupational regulation:** Proposed changes aim to ensure that occupational regulation within the building sector is proportionate to public safety risks, there is confidence that practitioners have the right skills and will act professionally, and those responsible for substandard work will be held to account when it occurs. The definition of restricted building work would be

broadened, there would be restrictions on who can carry out safety-critical engineering work, and exemptions allowing unqualified people to carry out sanitary plumbing, gasfitting and drainlaying in some cases would be repealed. A new tiered licensing system for licensed building practitioners is also proposed.

**Risk and liability:** A requirement for a guarantee and insurance product for all residential new builds and significant alterations is proposed, with an opt-out option. MBIE proposes to leave the liability settings for building consent authorities unchanged.

**Building levy:** Several changes to the building levy are proposed, with the aim of reducing building consent fees without affecting service levels for levy-payers. A broadening of the scope of the levy is proposed, to allow expenditure on stewardship activities such as monitoring, reviewing and reporting on regulatory systems. For example, on a $310,000 private house development, the levy bill would reduce from $623 to $465.

**Offences, penalties and public notification:** Proposals include an increase in the maximum financial penalties under the building Act 2004, with higher maximums for organisations than for individuals, and an extension in the timeframe for enforcement agencies to lay charges. An objective is align the Act with other legislation that protects people's lives and wellbeing. Please follow the link for the full statement. media release

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### "Unfair" law gives extra voting rights for multiple-property owners

*Radio New Zealand* reports election researchers say an "archaic" law that gives owners of multiple properties extra voting rights in local elections is unfair and should be done away with. Read the full story here.

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### Supreme Court finds against “onsold” claimant

*Radio New Zealand* reports on the Supreme Court ruling on the issue of “onsolds”, houses in Christchurch with damage identified post 2010 and 2011 earthquakes, that had been onsold to people who were finding out only now about major problems. The test case indicated the attitude of the courts when it came to deciding whether insurers were liable for the damage not brought to their attention by the original policy holder. The Court’s ruling could cut off claimants’ ability to get the original insurer to pay to fix damage. Read the full story here.

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### Mataura Valley Milk begins $5m plant expansion

*Stuff* reports that infant nutrition formula producer Mataura Valley Milk has begun work on a $5m expansion to its plant at McNab near Gore. New silos and a new tanker bay are included in the expansion. Read the full story here.

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### $370,000 fine for selling adulterated manuka honey

*Radio New Zealand* reports that Evergreen Life Ltd and its manager Jason Lee have been fined a total of $370,000 after conviction on charges of selling manuka honey adulterated with other substances with intention to deceive, for material gain. The charges, were laid by the Ministry for Primary Industries under the Animal Products Act. Read the full story here.

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### Construction of $3.79m bridge over Mataura River to start by end of 2019

The *Otago Daily Times* reports that Concrete Structures Ltd has been awarded the contract by Gore District Council to construct the new $3.79 million Pyramid Bridge across the Mataura River. Building work is expected to begin in December. The New Zealand Transport Agency will provide 73 per cent of the cost with Gore and Southland District Councils funding the remainder. Read the full story here.

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### DoC gives more funds for Fox River cleanup

*Radio New Zealand* reports that the Department of Conservation will allocate $300,000 to the clean up of the Fox River bed, polluted by soft plastic and other waste from a burst landfill. Westland Mayor Bruce Smith said he welcomed the funding but had doubts as to its adequacy

given the size of the recovery operation.  Read the full story here.

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### Forest and Bird to challenge Auckland Council consent for stormwater discharge to streams and sea

*Radio New Zealand* reports that Auckland Council's decision to grant resource consent to Healthy Waters to divert and discharge stormwater from the entire Auckland region into streams and the sea will be appealed by the New Zealand Forest and Bird Protection Society. The Society is concerned that the consent does not set adequate limits and conditions to ensure the safety of the coastal environment from polluting waste waters.  Read the full story here.

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