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Legal Case-notes December 2021

Feedback Please! Any Feedback? Drop us a note!

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

The Case-book Editor Roger Low can be contacted through the Survey & Spatial NZ National Office, or by e-mail, Roger Low<rlow@lowcom.co.nz>

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

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

- An application by Waimakariri District Council to make certain proposed rules affecting rural subdivision to have immediate legal effect from the date of public notification of the proposed district plan.
- The successful appeal by a developer of land at Waikanae against an abatement notice served on it by the regional council for undertaking approved works in a wetland area;
- An unsuccessful appeal by the developer of an over-height mixed use commercial and residential at Mission bay, Auckland to overturn refusal of consent by Auckland Council;
- An unsuccessful appeal to the Supreme Court involving off-shore sea-bed mining in NZs exclusive economic zone;
- A "procedural" application that sought to clarify the rights of a s 274 party to join a district plan appeal when their property tile had a "no-objection" covenant in favour of the appellant;
- An application for an enforcement order to prevent the holder of consent to develop a boat harbour at Waiheke Island from undertaking works in close proximity to a penguin colony;
- An application to the Court of Appeal to approve amendments to amend the grounds of appeal to a decision of the Environment Court on water take and export of water;

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CASE NOTES DECEMBER 2021:

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Re Waimakariri District Council _ [2021] NZEnvC 142

Keywords: district plan rule; district plan proposed; rural; subdivision

Waimakariri District Council ("the council") applied for an order under s 86D of the RMA seeking that certain rules in the proposed Waimakariri District Plan have immediate legal effect within the proposed General Rural Zone from the date of notification of the proposed plan or immediately upon grant of the order, if the order was made after the proposed plan was notified.

The council intended notifying a proposed district plan in September 2021 with new provisions to protect rural productive potential and rural character and amenity. It was concerned that if the proposed rules did not have immediate legal effect, there might be a rush of subdivision and land use applications under the rules of the operative plan and, were these to be granted, its strategic intention in proposing new rules would be undermined.

The Court stated that the notice of motion and supporting affidavits were thorough in their examination of the facts in support of the orders being made. The council had engaged in extensive public consultation to inform its policy platform and the content of rules, with the public being afforded a number of ways to make their views on the use of the rural resource known. The consequence of the orders was that the proposed rules would have immediate effect, but the public would have the right to contest the proposed rules by making submissions on the proposed plan, when it was notified. The Court was satisfied that the purpose of the Act would be met if the notice of motion was granted.

The Court was further satisfied that the notice of motion could be granted *ex parte*. While land owners would be impacted by the rules having legal effect, the potential prejudice that might otherwise arise from a grant of orders *ex parte* had been buffered by the council's extensive public consultation. Through its consultation the council had been signalling that it was considering a change to rural subdivision and land use policies.

The application under s 86D of the Act was granted. The Court ordered that specified parts of the proposed Waimakariri District Plan take legal effect on the date that the proposed plan was notified. The subdivision and land use rules having immediate legal effect were set out in Annexure A to the decision.

Decision Date 11/10/2021 _ Your Environment 12 October 2021

Also: **Re Waimakariri District Council** _ [2021] NZEnvC 143
Keywords: procedural

In this decision the Court considered an application for the confidentiality orders made in *Re Waimakariri District Council* [2021] NZEnvC 141 to be amended. The Court was satisfied that the requested amendment was appropriate and made it accordingly.

Decision Date 12/10/2021 _ Your Environment 13 October 2021

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W North Ltd v Greater Wellington Regional Council _ [2021] NZEnvC 166

Keywords: abatement notice; stay; wetland; subdivision

In May 2017 W North Ltd ("WNL") was granted a resource consent by the Wellington Regional Council ("the council") related to the subdivision and development for residential and related purposes a substantial area of land situated in Northern Waikanae. On 28 June 2021, WNL was served with an abatement notice issued under s 322 of the RMA by the council. The abatement notice asserted that a specified area was a wetland and that what WNL proposed to do there was outside the terms of the resource consent which it held, and that it would be unlawful. WNL appealed against the abatement notice, and sought a partial stay of the abatement notice, sufficient to allow it to complete the subdivision, development and sale of specified lots of the subdivision.

WNL argued that the council was fully aware of its intent for the area in question and raised no concerns during the consent process. No consents relating to wetlands were granted, or contemplated, because at that time no party disputed the conclusion that there were no natural wetlands that would be affected. The council argued that the evidence now available indicated that there was a wetland in the relevant area, whether or not it was apparent four or five years ago, and that the acknowledged ecological importance of wetlands and their increasing rarity meant that any activities which might imperil the wetland should be halted until the issues could be explored at a full hearing of the appeal.

The Court stated that the starting point was that WNL had a resource consent permitting it to complete the subdivision of the land in question. That consent was granted after full and proper process and inquiry by experienced and informed council staff into the material supplied to support it. There was nothing in any material arising before 2021 that suggested that a wetland might be present on the land. The Court noted that WNL submitted that the interim works proposed would not have an impact on the alleged wetland to any material degree. In the circumstances the Court found that that application was entirely reasonable as it would enable the consented works to continue and would have minimal, if any, effect on what was now contended by the council to be a wetland. The Court granted a stay of the abatement notice enabling WNL to undertake the specified works.

Decision Date 15/11/2021 _ Your Environment 16 November 2021

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Drive Holdings Ltd v Auckland Council _ [2021] NZEnvC 159

Keywords: district plan; resource consent; height; bulk and location; scale

This was an appeal against the decision of Commissioners for Auckland Council ("the council") to refuse an application by Drive Holdings Ltd ("DHL") for a retail/residential development over multiple sites zoned in the town centre at Mission Bay, Auckland. The key issue on appeal was the overall height of the project and the consequences of the bulk and scale of the building over the multiple sites. Following the council decision, DHL had submitted a revised proposal and during the hearing submitted another proposal ("the June Proposal"), which was an alternative which reduced the overall height and scale of the building. DHL did not abandon their revised proposal but sought to include the June Proposal as an alternative for the Court if it concluded that the revised proposal was not acceptable.

Under the Auckland Unitary Plan ("AUP"), the entire site subject to this application was zoned as Business-Local Centre. At the council hearing the application was for a discretionary activity because a new replacement movie theatre was proposed. DHL removed the theatre from its proposal for this appeal hearing, thus making the overall application a restricted discretionary activity. The Court noted designers' evidence stating that they had sought to redistribute the available bulk and scale to achieve a similar overall outcome to that anticipated under the plan. However, during the case it became clear to the Court that there were aspects of this approach which were inconsistent with the AUP.

The Court concluded that the real issue in this case was DHL's continued pursuit of over-height residential apartments on the site. This was notwithstanding clear opposition by residents, the council and relevant experts. There were persistent over-height and bulk elements in the proposal, which were an over-intensification of these sites beyond that anticipated in the AUP. The Court was of the view that the AUP provisions were not the result of chance or inattention on the part of the council, or the Independent Hearings Panel ("IHP") which considered them. These height limits were the subject of submissions to the IHP who gave some consideration to the height for the Local Centre of Mission Bay and there was particular argument and thought given to the planned outcome for the Mission Bay Local Centre and surrounding zones. The Court concluded the AUP submission process and decision by the IHP was correct, both as to principle and as to the balancing of the various issues in the area at a fine grain. Particular consideration had been given to the height relationships between the headlands, the residential areas, behind the reserve areas on the foreshore and the height of the Local Centre.

The Court considered the decision of the council Commissioners was well founded. Although there were two variations to this proposal, the Court concluded neither achieved nor implemented the AUP or met the wider purpose of the RMA. The Court found that it was not for the present court to redesign a consentable proposal and it refused to do so. It concluded that a redesign was required but there were many issues that were affected by such a redesign. On the basis of the applications put to the Court, it refused consent and at this stage was not satisfied there was currently a consentable proposal before it. The appeal was refused, and the council Commissioners' decision confirmed. Costs were reserved.

Decision Date 3/11/2021 _ Your Environment 4 November 2021

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Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board
[2021] NZSC127

Keywords: Supreme Court; mining exploration; mining licence; tangata whenua; Maori values; kaitiakitanga; New Zealand coastal policy statement; Waitangi treaty

Trans-Tasman Resources Ltd ("TTR") sought marine consents and marine discharge consents in order to undertake seabed mining within New Zealand's exclusive economic zone. By a majority decision, the decision-making committee ("DMC") of the Environmental Protection Authority granted the application for consents with conditions under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 ("the EEZA"). The first respondents successfully challenged the DMC decision in the High Court as wrong in law. The Court of Appeal dismissed TTR's appeal, upholding the High Court's decision to quash the decision of the DMC and refer the matter back for reconsideration. TTR was granted leave to appeal to the Supreme Court on the question of whether the Court of Appeal was correct to dismiss the appeal.

The Supreme Court unanimously dismissed the appeal. A majority of the Court (Winkelmann CJ, Glazebrook and Williams JJ) held that s 10(1)(b) of the EEZA, which applies to marine
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discharges and dumping, creates an environmental bottom line in the sense that, if the environment cannot be protected from material harm through regulation, then the discharge or dumping activity must be prohibited. The bottom line in s 10(1)(b) did not mean applicants for discharge consents were limited to showing there was no material harm. Rather, they might also accept conditions that avoid material harm, mitigate the effects of pollution so that harm will not be material, or remedy it so that, taking into account the whole period of harm, overall, the harm is not material.

The majority held that decision-makers must follow a three-step test when assessing applications for marine discharge and dumping consents under the EEZA, as follows: (a) Is the decision-maker satisfied that there will be no material harm caused by the discharge or dumping? If yes, then step (c) must be undertaken. If not, then step (b) must be undertaken. (b) Is the decision-maker satisfied that conditions can be imposed that mean: (i) material harm will be avoided; (ii) any harm will be mitigated so that the harm is no longer material; or (iii) any harm will be remedied within a reasonable timeframe so that, taking into account the whole period harm subsists, overall the harm is not material? If not, the consent must be declined. If yes, then step (c) must be undertaken. (c) If (a) or (b) is answered in the affirmative, the decision-maker should perform a balancing exercise taking into account all the relevant factors under s 59, in light of s 10(1)(a), to determine whether the consent should be granted.

William Young and Ellen France JJ differed in that, on their approach, what was required was an overall assessment of the relevant factors in s 59, albeit those factors needed to be addressed with both s 10(1)(a) and (b) purposes in mind. Section 10(1)(b) in their view did not set an environmental bottom line. Material harm was not automatically decisive, but s 10(1)(b)'s sole focus on protection and other elements of the statutory scheme meant the balancing exercise might well be tilted in favour of environmental factors where discharge and dumping consents were concerned. That decision, however, would need to be made on a case-by-case basis.

The Court was unanimous that a fundamental error was that the DMC's decision did not comply with the requirement to favour caution and environmental protection in ss 61 and 87E of the EEZA, as was illustrated by the conditions imposed by the DMC relating to marine mammals and seabirds.

In considering the effect of the Treaty of Waitangi clause in s 12 of the EEZA, all members of the Court agreed that a broad and generous construction of such Treaty clauses, which provided a greater degree of definition as to the way Treaty principles were to be given effect, was required. The Court found an intention to constrain the ability of statutory decision-makers to respect Treaty principles should not be ascribed to Parliament unless that intention was made quite clear. Here, s 12(c) provided a strong direction that the DMC was to take into account the effects of the proposed activity on existing interests in a manner that recognised and respected the Crown's obligation to give effect to the principles of the Treaty. It followed that tikanga-based customary rights and interests constituted "existing interests" for the purposes of the s 59(2)(a) criterion, including kaitiakitanga and rights claimed, but not yet granted, under the Marine and Coastal Area (Takutai Moana) Act 2011. Further, drawing on the approach to tikanga in cases such as *Takamore v Clarke* [2012] NZSC 116, [2013] 2 NZLR 733, all members of the Court agreed that tikanga as law must be taken into account by the DMC as "other applicable law" under s 59(2)(l) of the EEZA where its recognition and application was appropriate to the particular circumstances of the consent application at hand.

The Court was agreed that the Court of Appeal was correct to uphold the High Court's decision to quash the DMC's decision. The appeal was dismissed. By a majority decision, the matter was referred back to the DMC for reconsideration in light of the Supreme Court's decision. Costs were reserved.

Decision Date 21/10/2021 _ Your Environment 21 October 2021

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Waterfall Park Developments Ltd v Queenstown Lakes District Council _[2021] NZEnvC 150

Keywords: party; appeal procedure; procedural; covenant

This interim decision concerned an application by J and R Hadley ("H") to join the appeal proceedings as a s 274 party. H made their application in circumstances where they were already s 274 parties to the appeal, having been such since May 2019. Their rationale in seeking waiver concerned an encumbrance, which included a non-objection covenant,
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registered on their title in favour of Waterfall Park Developments Ltd. The covenant was the subject of an arbitration scheduled for hearing starting 11 October 2021. A potential outcome of the arbitration, as to matters of interpretation in dispute between the parties, could be to void or expunge H's present party status (and potentially, their underpinning proposed district plan submissions). Hence, H wished to cover against that contingency, seeking a determination that the Court would grant leave for them to rejoin as a party as of 1 December 2021, in the event that this proved necessary.

H's new s 274 notice that was the subject of the waiver application differed from the notice under which they joined as party in 2019 only in one material respect. That was in claiming that H also qualified as a party under s 274(1)(d) in having an interest in the proceeding that was greater than the general public had on the basis that they owned property that was in very close proximity to the property subject to appeal ("the site").

As landowners living in close proximity to the site, the Court was satisfied that H qualified under s 274(1)(d) as "a person who has an interest in the proceedings that is greater than the interest that the general public has". That was in the sense that development rights and opportunities pursued in the appeal could potentially have impacts on their private amenity and outlook, given that they lived in close proximity to the appeal site. The Court was further satisfied that it was appropriate to receive and consider the waiver application, at this time, notwithstanding that H were already party to the appeal. That was because that party status could, potentially, be lost through the arbitration process and nothing precluded the Court from giving consideration to that contingency. The Court was satisfied that there were no issues of substantial prejudice that would disqualify H from waiver. However, the Court stated it was not in a position to adjudge the theoretical potential for matters pertaining to discretion to arise from the arbitration. Therefore, in the overall interests of justice, the Court left its final determination of the application reserved, subject to the directions specified in the decision.

Decision Date 20/10/2021 _ Your Environment 21 October 2021

(See previous report in case-notes – August 2021 – RHL)

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Ngāti Paoa Trust Board v Kennedy Point Boatharbour Ltd _ [2021] NZEnvC 146

Keywords: enforcement order; jurisdiction; interpretation

This was the decision of the Environment Court on a preliminary jurisdictional issue regarding an application for enforcement orders. The matter related to a boat marina consented by the Environment Court in 2018 at Putiki Bay near Kennedy Point on Waiheke Island. Ngāti Paoa Trust Board ("Trust Board") applied for interim orders under ss 320, 314(1)(a)(i) and (ii), 314(1)(d) and 316, to prohibit Kennedy Point Boatharbour Ltd ("KPBL") from exercising the coastal permit granted by the Environment Court in 2018 to undertake works on a rock wall within 15 metres of the low-tide line on the rock wall at Kennedy Point Bay, Waiheke, unless and until specified events/actions were undertaken.

A jurisdictional issue had arisen as to whether the provisions of s 319(2) of the RMA acted as a prohibition on the Environment Court granting an enforcement order in certain circumstances alleged by KPBL to be present. The Court stated the issues traversed included: did s 319(2) operate akin to the approach to strike-out applications; had the consent holder been acting in accordance with its resource consent; were the adverse effects pointed to by the Trust Board, expressly recognised by the Environment Court as decision maker; did elapsed time and change of circumstances nevertheless warrant the making of enforcement orders; and subject to the previous answers, was it presently necessary for urgent interim enforcement orders to be made?

As to strike out, the Court stated the s 319(2) statutory bar arose only in relation to enforcement order matters; strike-out procedures could arise across a much broader range of cases. The Court held that the tests relevant to consideration of the statutory bar in s 319(2) were to be applied and that in doing so it could take account of such of the evidence filed during the life of the proceedings as assisted with application of those tests.

The Trust Board alleged that KPBL had been in breach of three conditions of its resource consent and was therefore not operating in accordance with them. Regarding these, the Court found complaints about the occasional intrusion of mussel buoys after storm events, or as a result of actions by protestors, to be in the minor or transitory category. As to the other allegations of breach of conditions and consequent operation outside the resource consent, the Court stated that the submissions for the Trust Board could be characterised as an attack on
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the accuracy or correctness of Auckland Council's most recent certification as required by the conditions of consent. The Court found it was effectively being asked to conduct a review of the certification of the management plan, which was not within the jurisdiction under s 319 of the RMA, at least as it concerned the test about whether a consent holder was acting in accordance with its resource consent.

The Trust Board submitted that the effects now complained of were "not expressly recognised" by the Environment Court when it granted consent. The Court found that the Trust Board's approach to analysis of "expressly recognised" cut squarely across the fundamental principle of finality of litigation which reflected the public interest in there being an end to litigation and the private interest of parties in not being subjected to vexatious re-litigation.

The Trust Board submitted that approximately three and a half years had elapsed since the grant of consent and that an increase in numbers of kororā, and the colony being regionally significant, represented a change in circumstances. The Court found that neither the time elapsed since the grant of consent nor the apparent increase of the use of a breakwater by kororā was such as to result in the statutory bar in s 319(2) being lost.

In view of the Court's findings in relation to s 319(2) and (3) of the RMA, the Court found the jurisdictional bar pleaded by KPBL was raised. The words of subsection (2) were emphatic: "must not make an enforcement order". This provision was a reflection of the well-known legal principle about finality and litigation discussed in *Commissioner of Inland Revenue v Redcliffe.*

Decision Date 18/10/2021 _ Your Environment 19 October 2021

(See previous reports in June 2021.)

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Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council _[2021] NZCA 452

Keywords: Court of Appeal; appeal procedure

This decision followed *Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council* [2021] NZCA 354, where the Court of Appeal granted leave to the appellants on five questions of law. The appellants now sought two amendments to the approved questions of law: (1) First, that question one, for which leave was granted to Te Rūnanga o Ngāti Awa ("Ngāti Awa") and Sustainable Otakiri Inc, should be reformulated as follows (with the changes italicised): Did the High Court err in finding that the Environment Court was correct to conclude that the effects on the environment *of end use (ie export and use of plastic bottles)* were beyond the scope of consideration in relation to the second respondent's application for consents to take water, and those relating to land use activities? (2) Secondly, that the following new question of law should be added to the appeal, and if so, that leave to appeal should be granted on that question to Ngāti Awa, Ngāti Pikiao Environmental Soc Inc and Te Rūnanga o Ngāi Te Rangi Iwi Trust: Did the High Court err in finding that the Environment Court was correct to exclude consideration of the cultural effects of export as an end use of the water take?

The appellants argued the amendment to question one was necessary to clarify that the export of water, outside the rohe of Ngāti Awa and overseas, formed part of the question; and that it was not limited to the effects of using plastic bottles. In terms of the proposed new question, the appellants said it raised an issue of general or public importance. The respondents did not take issue with the proposed changes to question one, however, they opposed the addition of the proposed new question.

The Court considered that the proposed amendment to question one was appropriate. It accordingly granted leave to Ngāti Awa and Sustainable Otakiri Inc to amend their grounds of appeal to that extent. The Court did not agree to the addition of the proposed new question to the appeal. It agreed with the respondents that the question incorrectly assumed the Environment Court did not consider cultural effects of export as an end use. The applications for leave to amend the first approved question of law were granted, and the first approved question of law was set aside and substituted. The applications for leave to amend the questions of law were otherwise declined.

Decision Date 27/9/2021 _ Your Environment 28 September 2021

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

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

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Other News Items for December 2021

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New Zealand passes world-first climate reporting legislation

Commerce and Consumer Affairs Minister Dr David Clark and Climate Change Minister James Shaw have announced that New Zealand has become the first country in the world to pass a law that will ensure financial organisations disclose and ultimately act on climate-related risks and opportunities.

The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill has now passed its third reading. Once in effect, it is expected to make a significant contribution to New Zealand achieving carbon neutrality by 2050.

"This Bill will require around 200 of the largest financial market participants in New Zealand to disclose clear, comparable and consistent information about the risks, and opportunities, climate change presents to their business. In doing so, it will promote business certainty, raise expectations, accelerate progress and create a level playing field," David Clark said.

James Shaw said the legislation was one of a number of actions the Government is taking to meet its international obligations and achieve the 2050 emissions targets required by the Climate Change Response Act 2002.

"Climate-related disclosures will bring climate risks and resilience into the heart of financial and business decision making. It will encourage entities to become more sustainable by factoring the short, medium, and long-term effects of climate change into their business decisions," James Shaw said.

"New Zealand is a world-leader in this area and the first country in the world to introduce mandatory climate-related reporting for the financial sector," James Shaw said

Once passed, disclosures will be required for financial years beginning in 2023, subject to the publication of climate standards from New Zealand's independent accounting standard setter, the External Reporting Board (XRB).

The XRB's climate standards will be based on the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) on Governance, Risk Management, Strategy, and Metrics and Targets. The recommendations are widely acknowledged as international best practice.

The XRB released its first consultation document focussing on Governance and Risk Management for the proposed climate-related disclosure reporting standards on 20 October 2021. Consultation on standards for the Strategy, and Metrics and Targets will follow.

"We encourage reporting entities to actively engage with the XRB in the consultation process. Your feedback, be they concerns or suggestions, will help contribute to the development of climate standards that are fit for Aotearoa New Zealand," David Clark said.

Please follow the link for the full statement - media release

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District councils take proceedings over Three Waters reforms

The Otago Daily Times reports that proceedings have been filed in the Wellington High Court by the Waimakariri, Timaru and Whangarei district councils seeking to affirm local government's rights and obligations as infrastructure asset owners. Read the full story here.

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Queenstown's new Upper Village complex

The Otago Daily Times reports that a large dining and lifestyle hub is to open below the Skyline gondola in Queenstown. Engage Group's "Upper Village" comprises two buildings, with about 5000 sqm of lettable area. Read the full story here.

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Housing density changes prompt criticisms

Radio New Zealand reports that the bill that would allow multi-storey intensification has drawn a range of responses in submissions. Local Government New Zealand's deputy chief executive in charge of policy said the legislation was not perfect but an absolutely vital and necessary step. Hamilton City Council's submission calls for it to be withdrawn because it will undermine the city's more targeted approach. Read the full story here.

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New city centre strategy for New Plymouth

Stuff reports that a $13 million draft City Centre Strategy has been approved by New Plymouth District Council's strategy and operations committee. The strategy would see improved links between the city, coast and Pukekura Park, trees on Devon St replaced with native plants, and Currie St turned into a permanent market area. Read the full story here.

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Property tax confusion? Event aims to put you on track

NZ Advisor reports that the Urban Task Force is hosting an online forum on 16 November, to help property investors and developers further understand the latest changes to property tax. In March 2021, the Government announced housing reforms to slow down investor activity, including removing the interest deductibility loophole for future investors and phasing it out on existing residential investments. The UTF forum will have tax specialists discussing the latest property tax issues. Read the full story here.

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New central-city park for Wellington

Stuff reports that Wellington City Council is to establish a new central-city park on the corner of Frederick and Taranaki streets in Te Aro alongside a not-for-profit social housing project. The council is buying 726 square metres of land from the Kirva Trust to develop the new park. Read the full story here.

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Nelson Junction site development nears

Nelson Mail reports that the development of the Nelson Junction site is kicking into gear with plans progressing for a large-format retail centre. Nelson company Gibbons, which owns the site, is beginning early site clearing and infrastructure work. In the first stage, opposite Mitre 10 Mega, there will be 10,948 square metres of retail with up to 11 tenants. There was a wide range of interested potential tenants, according to Real Estate company Colliers International. Read the full story here.

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Wellington region's mayors want more detail about government's housing intensification plans

Stuff reports Wellington region's mayors say they've been blindsided by the Government and National's joint housing intensification announcement and the introduction of a new Bill to force councils to allow more dense housing. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill will allow buildings of up to three storeys on most sites in cities without any need for resource consent from August 2022.

Wellington mayor Andy Foster said he was irked by the timing of the policy's release a day before his council debated its District Plan. - Read the full story here.

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We are now breathing in microplastics and these are impacting on climate, study shows

Radio NZ reports that several studies around the world have confirmed microplastics are present in the air we breathe, in addition to their presence worldwide on land and in the oceans. These airborne microplastics are being further researched to determine the extent to which they

contribute to climate cooling or warming. The current concentration of microplastics in the atmosphere is low and they have only a very small influence on global climate at this point. But given projections for a doubling of plastic waste over coming decades, it is expected microplastics could have a larger impact on Earth's climate system. Read the full story here.

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Environment Minister - no surprise that contaminants have been found at Tiwai Point

Stuff reports that Last week Rio Tinto, which owns New Zealand's Aluminium Smelter, near Invercargill, released a detailed site investigation, which had been carried out as part of studies to ensure the site was remediated to the required level upon its closure. The smelter warned that contamination results at the site "might cause concern to people", something that came as no surprise to Minister for the Environment David Parker. Environment Southland was the responsible authority for leading the clean-up and remediation of the Tiwai Point site, and it has contracted environmental consultants to analyse the detailed site investigation report, Parker said. Read the full story here.

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Three waters reforms to be mandatory for councils

Radio New Zealand reports that Local Government Minister Nanaia Mahuta has confirmed councils will be required to take part in the three waters reforms. Councils were initially offered an opt-in approach to the reforms. Read the full story here.

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Auckland light rail proposals released

Radio New Zealand reports a government working group has presented options for a new Auckland Light Rail. The working group's preferred option, "Tunnelled Light Rail", priced at $14.6b, would see a modern tram running through an underground tunnel from Wynyard Quarter to Mt Roskill before coming up to street level in the direction of the airport. Read the full story here.

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Plans for 10,000 new rental homes

The New Zealand Herald reports that a developer and a KiwiSaver provider are planning to build 10,000 new rental homes in Auckland, Tauranga and Wellington. The homes, worth about $5 billion, will be built in the next decade. Read the full story here.

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Estimated 3000 buildings need checking as identifying earthquake-prone buildings in Dunedin begins

Radio New Zealand reports that work has begun to identify earthquake-prone buildings in Dunedin. It is estimated 3000 buildings will need to be assessed for risk. The Dunedin City Council has until 2032 to identify earthquake-prone buildings and owners then have 35 years to complete strengthening work. - Read the full story here

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Council works with developer on new $1 million playground

Stuff reports that Matamata-Piako District Council is working with a developer on a $1 million destination playground at Lockerbie Estate in Morrinsville. When complete, the Lockerbie Estate development will have 800 homes. Read the full story here.

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Kāinga Ora plans to build thousands of prefabricated homes

Stuff reports that Kāinga Ora to build thousands of prefabricated homes for transitional housing. A goal of the project was to boost New Zealand's domestic off-site manufactured capacity and capability, but many will be constructed abroad and shipped over as ready-built, weathertight one and two-bedroom homes. Read the full story here.

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Energy company commences plan to build chain of green hydrogen fuelling stations

Stuff reports that Hiringa Energy is investing $50 million to build four green hydrogen fuelling stations to support the roll-out of 20 hydrogen powered trucks. They will be located in Auckland, Tauranga, Hamilton and Palmerston North. Read the full story here.

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New Zealand signs up to Global Methane Pledge

The New Zealand Herald reports that New Zealand has signed up to the Global Methane Pledge, which commits countries to work together to reduce global emissions of the greenhouse gas by at least 30 per cent, on 2020 levels, by the end of the decade. The commitment was reached as leaders gathered at the COP26 climate change conference in Glasgow, Scotland. Read the full story here.

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Construction begins on new mountain biking trail at Queenstown's Coronet Peak

The Otago Daily Times reports that construction has begun on a new mountain biking trail at Queenstown's Coronet Peak, which has been 16 years in the planning. It is hoped the trail will be complete for Coronet's summer opening day, on December 11. Read the full story here.

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Former Palmerston North church to be transformed into affordable high-density housing

Stuff reports that Japac Homes has bought the Plymouth Brethren Christian Church's old hall on Napier Rd, Palmerston North, and plans to replace it with several townhouses and an apartment block. The old church will be demolished next year, with construction on the housing due to begin by mid-2022. Read the full story here.

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First electric flight over Cook Strait

Stuff reports that the first battery-powered, emission-free plane has crossed Cook Strait. The two-seater Pipistrel Alpha Electro, owned by Christchurch-based company ElectricAir, touched down at Wellington Airport, after setting off from Blenheim. Read the full story here.

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Council to pay $23,000 to property owners

Otago Daily Times reports that a failed legal action by the Dunedin City Council against landowners has landed the council with a $23,000 bill. The council's enforcement action against property owners Steven and Michael Ross, relating to vegetation clearance, was found to be without substance and the Environment Court has made an order for costs against the council. The property is part of an urban biodiversity mapped area, or a network of green corridors, in the Dunedin City Council's second-generation district plan, which led to issues around removal of trees, fencing and biodiversity. Read the full story here.

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New Zealand the key to curbing Canada's real estate prices?

National Post reports that a radical new law intended to reduce New Zealand's infamous housing crunch could well be a model for how Canada could curb its ever-skyrocketing real estate prices, according to Canadian experts. This week, in a rare bipartisan action, the New Zealand government discussed measures to quash "overly restrictive planning rules" that hinder development in urban cores. The NZ changes would allow for the development of up to 50 per cent of an individual's land, and build up to three storeys high without consent from municipal authorities. Read the full story here.

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Dunedin fishing company forfeits vessel

The Otago Daily Times reports that a Dunedin fishing company, Anderson Fishing Company Ltd, has had to forfeit its vessel and has been fined $4000. The company was caught set netting within the four-nautical-mile prohibited area on eight separate occasions. Read the full story here.

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Project to fix Wellington's sewerage problem

Stuff reports that Wellington's proposed sewage sludge minimisation project, Project Jasmine, seeks to introduce new technology for managing the sludge. Project Jasmine would see the decommissioning of the Moa Point-to-landfill pipe, which is approximately nine kilometres long and travels beneath several residential suburbs. Read the full story here.

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Government to build 1260 more affordable homes in Auckland
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Stuff reports that the Government is to spend $282 m building 1260 more affordable homes in in five Auckland suburbs. The houses will be built in Mt Roskill, Mangere, Tāmaki, Oranga and Northcote. Read the full story here.

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Auckland Council taken to court over tree protection rules

Stuff reports that tree advocates, the Tree Council, are taking Auckland Council to court over its decision not to expand its schedule of protected trees over the past decade. The group argues the council has failed its legal duty to maintain the Notable Trees Schedule. Read the full story here.

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Waikato River's health may trump Government's housing intensification plans

Stuff reports that Hamilton city councillor Ryan Hamilton says the wellbeing of the Waikato River, as expressed in Te Ture Whaimana/the Vision and Strategy for the Waikato River, could trump any housing intensification directives from the Government. City council lawyer Lachlan Muldowney said the Vision and Strategy for the Waikato River will be a significant feature of the council's submission on the proposed housing rules. Read the full story here.

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New Zealand failure to "green" buildings

The New Zealand Herald reports that Argosy, a property company with a growing green building portfolio, is urging the Government to take a lead on the issue of "green buildings" and New Zealand's current failure to slash carbon emissions from its commercial buildings. Peter Mence, Argosy's chief executive, says buildings account for about 20 per cent of New Zealand's carbon footprint but central and local government have been slow to get a handle on this. Read the full story here.

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Council requests consent for pole sculpture

The Otago Daily Times reports that a Southland man is to be ordered by Southland District Council to get consent for his artistic power pole installation more than a decade after it was created. Fourteen years ago, accommodation owner Ton Crooymans placed three power poles on an angle at his Tuatapere subdivision to resemble the wind-stricken trees at nearby Orepuki. Read the full story here.

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Wellington may pedestrianise Dixon, Ghuznee streets

Stuff reports that several central Wellington streets could be blocked to cars as part of a proposal to be presented to Wellington City Council for a low-traffic central city. The Fossil Fuel Free Central City report, by consultants MRCagney, outlines a high-level concept for a low-traffic circulation plan. Read the full story here.

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