

Update Environmental and Resource Management Law

Service 56 — March 2022

Commentary

Chapter 1 — Environmental Law — Sources, legislation and governance

- Chapter 1 has been reviewed and updated by Dr Kenneth Palmer. In particular, content has been updated to reflect recent Supreme Court and Court of Appeal judgments; residential density standards introduced in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021; and the Pae Ora (Healthy Futures) Bill 2021.

Chapter 2 — Resource Management Act 1991 — Purpose and national direction

- Chapter 2 has been reviewed and updated by Dr Kenneth Palmer to include updated content on medium density residential standards; and recent Court of Appeal and High Court judgments in particular *Port Otago Ltd v Environmental Defence Society Inc* [2021] NZCA 638.

Chapter 3 — Resource Management Act 1991 — Regional and District policy and plans

- Chapter 3 has been reviewed and updated by Dr Kenneth Palmer to include reference to requirements for regional policy statements to address matters of climate change; and changes to urban residential zoning under the NPS-UD.

Chapter 5 — Coastal Environment

- Chapter 5 has been reviewed and updated by Derek Nolan QC to include reference to *Minister of Conservation v Mangawhai Harbour Restoration Society Inc* [2021] NZHC 3113 which could have significant impacts on the management of wetlands in the CMA; and *Port Otago Ltd v Environmental Defence Society Inc* [2021] NZCA 638 establishing the hierarchy of policies in the NZCPS.

Chapter 7 — Minerals and petroleum

- Chapter 7 has been reviewed and updated by Daniel Minhinnick and James Winchester with reference to the Supreme Court decision *Trans-Tasman Resources Ltd v The Taranaki-Whanganui Conservation Board* [2021] NZSC 127.

Chapter 8 — Water

- Chapter 8 has been reviewed and updated by Bal Matheson and Daniel Minhinnick with reference *Re Otago Regional Council* [2021] NZEnvC 164 which considered the transitional approach to giving effect to the NPS-FM 2020.

Chapter 12 — New organisms and biosecurity

- Chapter 12 has been reviewed and updated by Mark Christensen to add reference to consideration of GMOs as part of the hearing process for the proposed Waikato District Plan.

Chapter 13 — Noise

- Chapter 13 has been reviewed and updated by Derek Nolan QC with reference to *Nottingham Forest Trustee Ltd v Unison Networks* [2021] NZCA 227 in the context of the test to be used in nuisance cases.

Chapter 15 — Heritage

- Chapter 15 has been reviewed and updated by Dr Kenneth Palmer, in particular to include reference to *Redmond Retail Ltd v Ashburton District Council* [2021] NZHC 2887 in relation to resource consents to demolish or remove listed buildings; *Re Reeder (on behalf of Ngā Pōtiki)* [2021] NZHC 2726 and *Re Ngāti Pāhauwera* [2021] NZHC 3599 in relation to customary title, customary rights and recognition of wāhi tapu; and the impact of heritage orders on the medium residential density standards.

Chapter 17 — Climate change

- Chapter 17 has been reviewed and updated by Allison Arthur-Young with reference to New Zealand's updated Nationally Determined Contribution; and the updated report of the Climate Action Tracker looking at current global targets to reduce warming.