

Update Environmental and Resource Management Law

Service 57 — June 2022

Commentary

Chapter 5 — Coastal Environment

- Chapter 5 has been reviewed and updated by Derek Nolan QC to include reference to *Port Otago Ltd v Environmental Defence Society and ors* [2022] NZSC 23 in which the Supreme Court granted leave on the question of whether the Court of Appeal was correct to dismiss the appeal. The key issue to be determined is how the ports policy and the avoidance policies in the NZCPS interact, and involves consideration of the correct application of the principles set out in *King Salmon*. Reference to *Ngāti Whātua Ōrākei Trust v Attorney-General* [2022] NZHC 843 has also been added, in which Palmer J highlighted the complexities for courts approaching tikanga and the role of expert evidence.

Chapter 8 — Water

- Chapter 8 has been reviewed and updated by Bal Matheson and Daniel Minninnick with reference to *Greater Wellington Regional Council v Adams* [2022] NZEnvC 25 which provides a useful consideration of the appropriate approach to deciding what constitutes a natural wetland in a terrestrial setting. Reference has also been added to *Poutama Kaitiaki Charitable Trust and D T Pascoe v Taranaki Regional Council* [2022] NZHC 629 and *Muaūpoko Tribal Authority Inc v Minister for Environment* [2022] NZHC 883 on the topic of exceptions to and exemptions in the NPS-FM.

Chapter 11 — Hazardous substances and contaminated land

- Chapter 11 has been reviewed and updated by David Randal to include reference to the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill.

Chapter 17 — Climate change

- Chapter 17 has been reviewed and updated by Allison Arthur-Young to include reference to the Glasgow Climate Pact and to update data on New Zealand's greenhouse gas emissions.

