

## NEW ZEALAND

### USE OF ‘PROHIBITED’ ACTIVITY STATUS\*

*Coromandel Watchdog of Hauraki Inc v Chief Executive of the Ministry of Economic Development* [2007] NZCA 473

*Resource Management Act 1991 – Territorial authority – District plan – Prohibited activity status – Mining.*

#### **Background**

Under the *Resource Management Act 1991* (RMA), a resource consent cannot be granted for an activity prohibited in a plan. If such an activity is desired it can only be undertaken if the planning provisions are changed. The Thames-Coromandel District Council’s (TCDC) proposed district plan classified mining as a prohibited activity in a number of zones. TCDC also recognised that a private party might propose a plan change to alter the situation. Coromandel Watchdog appealed against decisions made by TCDC in response to submissions made to it on the proposed district plan in respect of mining and related activities.

#### **Environment Court Decision**

The Environment Court found that TCDC was wrong to categorise mining as a prohibited activity in circumstances where it contemplated the possibility of mining occurring. It ruled that prohibited activity status should only be used when a local authority is satisfied that an activity could never be allowed in the relevant place.

#### **High Court Decision**

In an appeal by Coromandel Watchdog, the High Court upheld the Environment Court’s decision.

#### **Court of Appeal Decision**

However, the Court of Appeal disagreed with the Environment Court’s approach, considering that it unnecessarily elaborated upon the words within the RMA. It also held that the test would unduly limit the circumstances in which the categorisation of an activity as ‘prohibited’ may be the most appropriate option, for example where an authority has insufficient information about the effects of an activity at the time the plan is being formulated.

## NEW ZEALAND ENERGY STRATEGY/ENERGY EFFICIENCY AND CONSERVATION STRATEGY\*

The New Zealand Energy Strategy to 2050 (Energy Strategy) was released on 11 October as part of the Government’s package of sustainability and climate change initiatives. The Energy Strategy aims to set the strategic direction for the energy sector. It intends to ensure there will be security of supply and the ‘right’ conditions for capital investment in coming years, while reducing greenhouse gas emissions. The Energy Strategy aims to take action to produce resilient low

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