

Urban Planning Law

Word Limit: Maximum of 4,500 words excluding any footnotes and references. There is a 10% margin without penalty. Please include a word count at the end of your report.

Style Guide: insert author date and page references within the text (eg (Smith, 2013, pg 11)). Use footnotes sparingly. For referencing of **legal materials**, please use the same referencing style that you find used in the Environment Court case. For further information on the referencing of legal materials, please use the document: **General Rules of Citation for Planning Law Courses (on Canvas)**.

Assignment Objectives:

To create the opportunity for students to:

- acquire an understanding of approaches to planning for climate change in coastal contexts, currently being pursued in NZ; and
- develop some basic proficiency in reading and understanding case law;
- better understand how many of the key RMA concepts and principles operate in practice. These include:
 - Integrated resource management;
 - Effects based approach;
 - Precautionary principle;
 - Role of expert evidence and witnesses;
 - Impact of planning instruments on property rights (in context of climate change adaptation);
 - Role of central and local government in planning for climate change adaptation;
 - Role of Environment Court in planning decisions; and
 - **Application/importance of the *King Salmon* case.**

NOTE: you are not specifically required to write about these concepts – other than the extent to which they are relevant to the tasks described in Part One and Two of the Assignment Instructions, below.

Assignment Instructions:

Background Reading:

You are required to read the following report to understand (a) the likely impacts of climate change in New Zealand and (b) the role of central and local government, including (but beyond) their roles under the Resource Management Act 1991, (c) the activities of other sector groups in NZ; and (d) the current status of adaptation planning in NZ.

Find and read the report: *Adapting to Climate Change in New Zealand* (May 2017) by the Climate Change Adaptation Working Group.

You may also find the following report by the Parliamentary Commissioner for the Environment interesting, particularly as it relates to Auckland: *Preparing New Zealand for Rising Seas: Certainty and Uncertainty* (PCE, Nov 2015). It is NOT required that you read this!

PART ONE (worth 50%)

Carefully read *Gallagher v Tasman District Council* [2014] NZEnvC 245. This is an appeal on a Council proposed plan change, to a combined regional/district plan.

- Summarize, in your own words, the main facts in this case;
- Summarize, in your own words, the outcome in this case; and
- Explain, in your own words, the reasons for the Environment Court reaching the decision that it did in this case. Pay particular attention to these questions: Why did the Court NOT allow the Gallagher's to accept the risks of development? What was the relevance of the *King Salmon* decision?

PART TWO (worth 50%)

Carefully read *Weir v Kapiti Coast District Council* (Interim Judgment) [2013] NZHC 3522 [19 December 2013] 15 NZCPR 28. This is a legal challenge to information contained in Land Information Memoranda (LIM), giving land owners and purchasers information about the potential impacts of climate change. This legal action took place **prior to a full plan change process** which might have resulted in the "Shand lines" being put into the district plan, together with relevant plan rules to control existing and future development.

- Summarize, in your own words, the main facts in this case; and
- Summarize, in your own words, the outcome in this case;

Answer the following questions:

- What is the purpose of LIMs?;
- Why did the Council include the information on coastal erosion in the LIMs?;
- Why did Weir's challenge this information?;
- What did the Court decide about the inclusion of the information on LIMs?;
- What can other Councils learn from this case?;

