

THE TRANSPORT ENGINEERS HANDY UPDATE ON CASE LAW

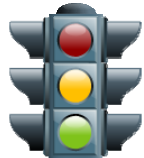
IPENZ Transportation Group Conference 2013

**Amanda Douglas
Partner**

**WYNNWILLIAMS
LAWYERS**

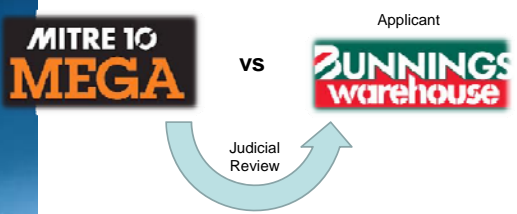
Introduction

- Recent cases of interest
- Update to cases in 2012 paper
- Tips/Lessons learnt




**WYNNWILLIAMS
LAWYERS**

Recent Cases: Trip Generation
Ferrymead Retail v Christchurch City Council



**WYNNWILLIAMS
LAWYERS**

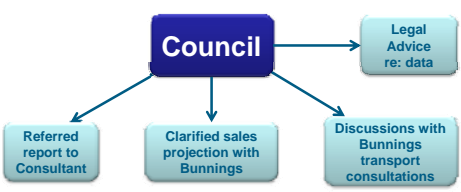
Recent Cases: Trip Generation
Ferrymead Retail v Christchurch City Council



**WYNNWILLIAMS
LAWYERS**

Recent Cases: Trip Generation
Ferrymead Retail v Christchurch City Council

Adequate information for notification:

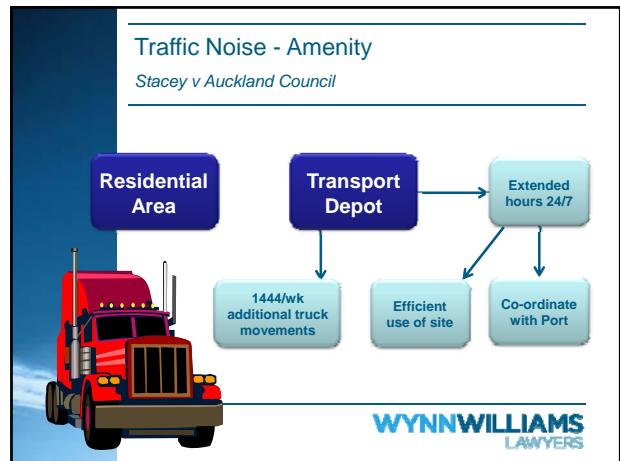
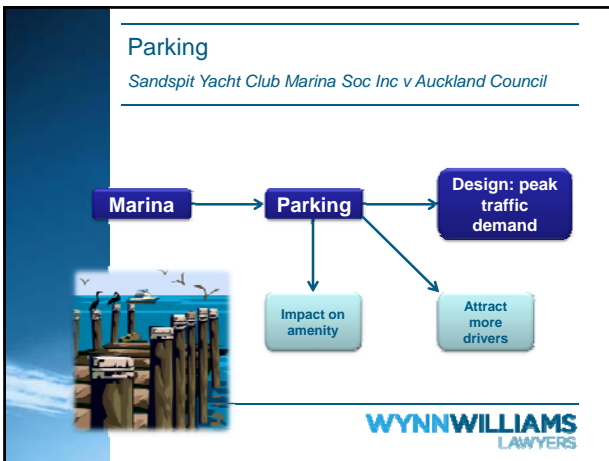


**WYNNWILLIAMS
LAWYERS**

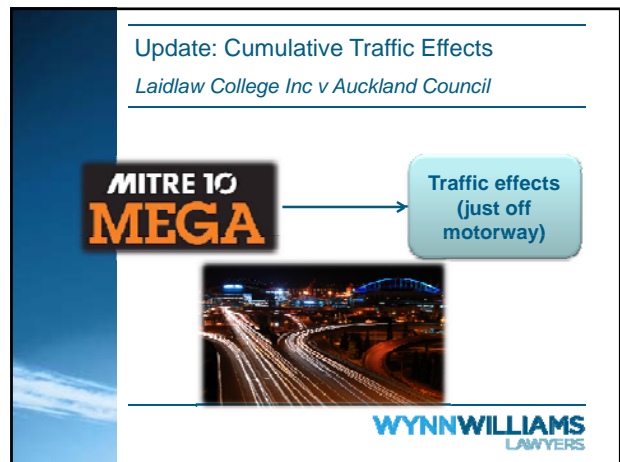
Recent Cases: Trip Generation
Conclusion

- Indexed annual sales figures accepted
- Raw data not necessary
- Checks and balances by council
- If new model, further inquiries needed
- Offered conditions relevant to notification assessment

**WYNNWILLIAMS
LAWYERS**



- ### Traffic Noise - Amenity
- Extended hours not approved
 - Noise effects of traffic on road assessed
 - Nearby residential zone relevant?
 - Later 24 hours but reduced truck movements
- WYNNWILLIAMS**
LAWYERS



- ### Update: Cumulative Traffic Effects
- Laidlaw College Inc v Auckland Council*
- Consent granted with agreed conditions:
- Nearby intersection upgrade (extra lane)
 - Temporary traffic management plan
 - Review of conditions for traffic/parking effects
 - Signalised intersection to control entry to site at consent holder's cost
- WYNNWILLIAMS**
LAWYERS

- ### Independent Witness
- Envirowaste Services Ltd v Auckland Council*
- Witness: office space in client's premises
 - Undermined independence as expert witness
-
- WYNNWILLIAMS**
LAWYERS

Detailed Reports & Realistic Mitigation

Blakely Pacific Ltd v Western Bay of Plenty DC

- Residential subdivision in rural zone
- No clear plan to deal with some adverse effects
- Witness assertions unrealistic
- Adverse effects obvious



WYNNWILLIAMS
LAWYERS

Addressing All Issues in Evidence

Stirling v Christchurch City Council

- Planner:
 - Application easily ticked off assessment matters
 - Assumed facts
- Court:
 - Go through all details
 - Never assume

WYNNWILLIAMS
LAWYERS

Conclusion

- New/different methods?
- Sometimes more is good but sometimes less is more.
- Maintain independence.
- Spell everything out.

WYNNWILLIAMS
LAWYERS

WYNNWILLIAMS
LAWYERS