

# Planning Pains? Don't Panic!

## Questions from an alumni

**What is the relevant section of the RMA that deals with authorities purchasing properties on the basis that their intended development (e.g. pylons), will make the property unsaleable?**

We suspect this is a point of general interest to our farming alumni and assume it relates to requirements and designations. "Unsaleable land" is not specifically provided for in the Resource Management Act 1991 (RMA). Section 86 is quite clear that nothing in the RMA can compel a council to acquire land except as provided in s185 and s198. Section 198 addresses the situation involving heritage orders, so in this instance s185 is the relevant section. Section 185(1) states:

An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Environment Court for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner's estate or interest in the land under the [Public Works Act 1981](#).

Subsequent sections provide various decision-making criteria. These include, that the owner has tried to sell the land covered by the designation/requirement, but has not been able to sell it at the market valuation the land would have if the designation/requirement did not exist. However, whether or not the Environment Court would grant such an order would depend on the particulars of the case. Discussion with a lawyer is recommended.

**Question from a student: What the f@^#! happened to ECan (Environment Canterbury)?**

We are as bemused as many on this matter, but basically the elected New Zealand Government of the day chose to pass legislation under urgency, and with extreme haste and lack of consultation. The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 was passed in April this year. The main effect of this legislation is to remove the elected representatives of the ratepayers and residents of the Canterbury Region and provide powers for the Government's Minister for the Environment and Minister of Local Government (the "responsible Ministers") to appoint Commissioners. It also waived the requirement to have elections for the Canterbury Regional Council in 2010. The Act specifically states that none of the elected members replaced by the Commissioners is to receive any compensation or other payment or benefit for the loss of office. For a comment on the ways in which the legislation has breached basic constitutional principles we recommend you read Brower (this issue) and:

Joseph, P. (2010) Environment Canterbury legislation *NZ Law Journal*, June 2010, 193-196.

For a comment on other changes regarding water conservation orders and moratoria see Rennie in this issue of *LPR*.



*The Canterbury Plains. Source: <http://www.teara.govt.nz/files/p10300gns.jpg>*