


### Westlaw NZ Delivery Summary

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# Royal Forest and Bird Protection Society Inc v W A Habgood Ltd

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<b>Court:</b>	High Court, Wellington
<b>Judges:</b>	Holland J
<b>Judgment Date:</b>	31/3/1987
<b>Jurisdiction:</b>	New Zealand (NZ)
<b>Court File Number:</b>	M655/86
<b>Citations:</b>	(1987) 12 NZTPA 76, 1987 WL 965678
<b>Attachments:</b>	Judgment Text 
<b>Party Names:</b>	The Royal Forest and Bird Protection Society Incorporated (Appellant), W. A. Habgood Limited (First Respondent), The Minister of Energy (Second Respondent), The Commissioner of Crown Lands (Third Respondent), Friends of the Earth (N.Z.) Limited (Fourth Respondent)
<b>Legal Representatives:</b>	Randerson AP; Maling S; Kenderdine S; Stanaway BM
<b>Classification:</b>	» <a href="#">Resource management</a>

## SUMMARY

Appeal in respect of report and recommendation of PT to Ministry of Energy; application for mining licence at Kaitorete Spit; recommendation to grant licence for 5 years subject to conditions; application to strike out declined for want of form; proceed by way of notice of appeal; matters PT to have regard to; Maori ancestral land; whether still has to be in possession of Maori; held, need to identify some factor of nexus between culture and traditions and the land in question which affects relationship of the Maori people to the land; continuous ownership often a relevant factor; effect of proposed use of the land on that relationship; examples not exhaustive; consider each case on its merits; PT made an error in law; HC compelled to quash decision or refer it back unless satisfied that error did not materially affect decision; considerable care taken in imposition of conditions to preserve things of value; satisfied PT gave the same weight to all the evidence; error of law played no material part in conclusions; no injustice to the appellant; pyrrhic victory

## Legislation Considered

- [High Court Rules](#) R 697, R 698, R 716
- [Maori Affairs Act 1953](#)
- [Mining Act 1971](#) s 21, s 30, s 69, s 126
- [Town and Country Planning Act 1977](#) s 3(1)(g), s 62

## Cases Cited



### Overruled

- [Otago Harbour Board v Silverpeaks County Council](#)(1983) 9 NZTPA 331 (PT) 

### Not Followed

- [Auckland District Maori Council v Manukau Harbour Maritime Planning Authority](#)(1983) 9 NZTPA 167 (PT) 

### Referred to

- [Knuckey v Taranaki County Council](#)(1978) 6 NZTPA 609 (PT) 
- [Re an application by NZ Synthetic Fuels Corporation Ltd under the National Development Act 1979](#)(1981) 8 NZTPA 138 (PT) 

## Words & Phrases Considered

"ancestral land", "Maori land"

## Journals noted in

[Richard Boast, "Property Rights and Public Law Traditions in New Zealand" \(2013\) 11 NZJPIL 161](#)

(1996) 8 Otago LR 452

[D V Williams, "Maori Issues II" \[1989\] NZ Recent Law 177](#)

[1989] NZ Recent Law Review 234

[Kenneth A Palmer, "Law, Land and Maori Issues" \(1988\) 3 Canta LR 322](#)

[Steve Bielby, "Section 3\(1\)\(g\) of the Town and Country Planning Act 1977" \(1988\) 6 Auckland UL Rev 52](#)

(1988) 3 Canta LR 336

[1987] BCL 628

[Rick Shera, "Section Three of the Town and Country Planning Act 1977: Adjudicating the Non-Justiciable" \(1986\) 5 Auckland UL Rev 440](#)

1 TCL 11/8