

Appendix C

Cases considering the Precautionary Principle

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
Australian Cases				
<i>Noor Al Houda Islamic College Pty Limited & Anor v Bankstown Airport Limited</i>	Supreme Court	NSW	2005	Negligence and trade practices claims against operator of airport which leased contaminated land to a school. Uncertainty over health impacts of contamination.
<i>Murrumbidgee Groundwater Preservation Association Inc v Minister for Natural Resources</i>	Court of Appeal	NSW	2005	Groundwater management plan made by Minister for Land and Water Conservation challenged on the grounds of irrationality. Water management plan informed by the precautionary principle.
<i>Vinson v Randwick Council</i>	Land and Environment Court	NSW	2005	Appeal against refusal by Council to grant development consent for a hotel in the vicinity of restaurants and residential areas. Uncertainty over development impact (increase in anti-social behaviour).
<i>Hutchison Telecommunications (Australia) Pty Limited v Baulkham Hills Shire Council</i>	Land and Environment Court	NSW	2004	Appeal against Council refusal to grant development consent for installation of telecommunications infrastructure. Residents voiced fears related to health impacts of emissions from telecommunications tower. Uncertainty over impacts of development (EMF exposure).
<i>Cooper v Wollondilly Shire Council</i>	Land and Environment Court	NSW	2004	Proposal for a caravan park on a site partly covered by an endangered ecological community. Uncertainty over impacts on flora and fauna.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Don Hodge Group Pty Ltd v Liverpool City Council</i>	Land and Environment Court	NSW	2004	Appeal against Council refusal to grant development consent for a hotel, where there was potential for noise impacts from the car park on nearby residents. Uncertainty over development impacts (noise).
<i>BGP Properties Pty Limited v Lake Macquarie City Council</i>	Land and Environment Court	NSW	2004	Appeal against Council refusal to grant development consent for a 48 lot industrial subdivision on land with significant endangered native vegetation and adjacent to wetlands, which composed endangered ecological communities. Uncertain impact on flora and fauna.
<i>Environment Protection Authority v TransGrid</i>	Land and Environment Court	NSW	2003	Prosecution of a state-owned corporation for polluting waters, where the corporation was required to conduct its operations in accordance with the principles of ESD, including the precautionary principle.
<i>Brunsdon v The Council of the City Wagga Wagga</i>	Land and Environment Court	NSW	2003	Development application for an intensive piggery facility (to be located on a floodplain with a high water table) required an environment protection licence and planning approval. Key problems were a leachate pond and land on which piggery waste was to be spread. Uncertainty over impacts of piggery on amenity (odour), soils and groundwater.
<i>Jones v Pristine Waters Council</i>	Land and Environment Court	NSW	2002	Appeal against refusal of modifications to development consent for a riverside "primitive camping ground", involving an increase in the number of sites, removal of restriction on watercraft and changed location of toilet facilities. Uncertainty over impacts on water resources.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Anderson v Pittwater Council</i>	Land and Environment Court	NSW	2002	Appeal against Council refusal to consent to a three lot subdivision on a site which was part of a habitat corridor, adjacent to a large area of native bushland, and would require removal of a significant amount of native vegetation. Uncertainty over impacts on flora and fauna.
<i>Graham Richter & Associates Pty Ltd v Campbelltown City Council</i>	Land and Environment Court	NSW	2000	Appeal against the refusal by Council to approve a development application to erect a tavern near a high school, community health centre and public housing. It was feared the development would lead to an increase in drinking and gambling problems in the suburb. Uncertainty over social impacts of development.
<i>Dubler v Ku-Ring-Gai Council</i>	Land and Environment Court	NSW	2001	Appeal against the refusal by Council to grant planning permission for a development application for 24 dwellings for the elderly or people with disabilities. Uncertainty over impacts of development (EMF exposure).
<i>Paul Hayworth v Hastings Council</i>	Land and Environment Court	NSW	1997	Appeal against refusal to allow the building of a house on a site that was predominantly covered by littoral rainforest, where it was said that "edge effects of urban development would affect its use as habitat by native fauna." Uncertainty over impacts on flora and fauna.
<i>Water Administration Ministerial Corporation v Auburn Council</i>	Land and Environment Court	NSW	2000	Injunction sought to stop work on an industrial/commercial development site adjacent to a salt marshland and mangrove channel. Uncertainty over impacts on wetland.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Northcompass Inv v Hornsby Shire Council</i>	Land and Environment Court	NSW	1996	Appeal against permit for a municipal bioremediation facility, which was claimed to advance the concept of ecologically sustainable development, that was located near "sensitive land uses" such as residential blocks and schools. Uncertainty over impacts (particularly odour) of novel development (bioremediation facility).
<i>Silverwater Estate Pty Ltd v Auburn Council & Another</i>	Land and Environment Court	NSW	2001	Part of sequence of litigation regarding development of the site in <i>Water Administration Corporation</i> , above. Dispute over width of required setbacks from the adjacent river, marsh and channel. Uncertainty over impacts on wetland.
<i>Cynray Pty Ltd v Young Shire Council and Anor</i>	Land and Environment Court	NSW	2000	Appeal against consent to development of intensive piggery, on the grounds of odour, salinity and adverse groundwater and surface water impacts. Conflict between expert evidence and community concern over odour impacts.
<i>Miltonbrook Pty Ltd v Kiama Municipal Council</i>	Land and Environment Court	NSW	1998	Applicant sought order to pay costs of successful appeal against Council refusal of development consent for a subdivision in a rural area of high conservation value, involving a restriction on the keeping of pets based on impacts on biodiversity. Issue was whether precautionary principle formed part of reasonable argument.
<i>Vertical Telecoms Pty Ltd v Hornsby Shire Council</i>	Land and Environment Court	NSW	2000	Development application seeking approval for an antenna to be installed on an existing tower for digital television, where residents voiced fears on about the health risks of exposure to radiofrequency.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Lend Lease Development Pty Ltd v Manly Council</i>	Land and Environment Court	NSW	1998	Appeals against Council's failure to determine development applications for a number of residential dwellings where there would be a possible impact on an endangered population of long-nosed bandicoots. Uncertainty over impacts on flora and fauna.
<i>NSW Glass and Silica Sand Users Association Ltd v Port Stephens Council</i>	Land and Environment Court	NSW	2000	Proposal to extract sand from a coastal dune, involving possible impacts on groundwater and local fauna. Uncertainty over impacts on coastal environments, flora and fauna.
<i>Cecil D Barker & Co v Blue Mountains City Council</i>	Land and Environment Court	NSW	2001	Appeal against refusal of Council approval for subdivision of land, where there were possible impacts on the Powerful Owl and water and soil management. Uncertainty over impacts on flora and fauna; water and soil resources.
<i>Our Firm Facility v Wyong Shire Council</i>	Land and Environment Court	NSW	2001	Appeal against refusal of a development application for a nursing home where the impact could be overloading of the sewerage system. Uncertainty over impact of development (sewerage system).
<i>Davfast Pty Ltd v Ballina Shire Council</i>	Land and Environment Court	NSW	2000	Appeal against refusal by Council to grant development consent for construction of two houses, involving adverse impacts through land clearing and road building on potential habitat for the common planigale. Uncertainty over impacts on flora and fauna; coastal environment.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>NTL Australia Ltd v Willoughby Council</i>	Land and Environment Court	NSW	2000	Appeal against refusal by Council to grant development consent for the extension of an existing television tower, and various building works, where potential health impacts from radiation were raised by Council. Uncertainty over impacts of development (television tower).
<i>Price v Water Administration Ministerial Corporation of NSW</i>	Land and Environment Court	NSW	2002	Appeal against refusal by Council of a licence to take water from a river, where there was a potential for stress to the river from effects of current licence holders. Uncertainty over impact of water resource usage .
<i>Dossor v Ballina Shire Council</i>	Land and Environment Court	NSW	2001	Appeal against refusal by Council to grant development consent for a subdivision of land for residential purposes, where runoff from the site could pose an environmental risk to downstream rainforest vegetation. Uncertainty over impact on water resources.
<i>Fitzpatrick Investments Pty Ltd v Blacktown City Council</i>	Land and Environment Court	NSW	1999	Appeal against refusal by Council to grant development consent for a 55 lot subdivision adjacent to a public reserve covering an endangered ecological community. Uncertainty over impact on flora and fauna.
<i>Planning Workshop Limited v Pittwater Council</i>	Land and Environment Court	NSW	1996	Appeal against refusal by Council to grant development consent for a subdivision where there was a potential impact on the environment of the squirrel glider. Uncertainty over impacts on flora and fauna.
<i>Terrace Tower Holdings Pty Ltd v Sutherland Shire Council [No 2]</i>	Land and Environment Court	NSW	2002	Appeal against refusal by Council to grant development consent for a “bulky goods retail centre”, where the dispute centred on the impacts of runoff from a proposed carpark. Uncertainty over impacts on coastal environment.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Commonwealth of Australia v Randwick City Council</i>	Land and Environment Court	NSW	2001	Appeal against refusal by Council to grant development consent for a 661 lot residential subdivision, where asbestos was present on the site. Uncertainty over impacts of development (asbestos levels).
<i>NSW Land and Housing Corporation v Cambelltown City Council</i>	Land and Environment Court	NSW	2002	Appeal against refusal by Council to grant development consent for a subdivision in the area of threatened species and communities. Uncertainty over impacts on the flora and fauna.
<i>Alumino (Aust) Pty Ltd v Minister Administering the Environmental Planning & Assessment Act 1979 and Ors</i>	Land and Environment Court	NSW	1996	Appeal against refusal by the Minister administering the Environmental Planning and Assessment Act to grant consent for a dross recycling plant, where there were suggestions of health risks arising from air emissions. Uncertainty over impacts of novel development (dross recycling plant).
<i>Donnelly v Delta Gold Pty Ltd & Ors</i>	Land and Environment Court	NSW	2001	Application for injunction preventing the spraying of waste waters generated by mining operations on land. Conflicting scientific opinion about impacts of development (spray irrigation of waste waters).
<i>Greenpeace Australia Ltd v Redbank Power Company Pty Ltd</i>	Land and Environment Court	NSW	1994	Appeal under Environmental Planning and Assessment Act 1979 against development consent granted for the development of a power station using tailings from coal washery plants as fuel, the key concern being carbon dioxide emissions from the plant. Uncertainty over impacts of development (power station increasing CO ₂ emissions).

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Leatch v National Parks and Wildlife Service & Anor</i>	Land and Environment Court	NSW	1993	Appeal against the granting of a license to Shoalhaven City Council to 'take and kill' endangered fauna from an area where a road was proposed to be constructed. Uncertainty over impacts on flora and fauna.
<i>Jeffrey Nicholls v National Parks and Wildlife Service</i>	Land and Environment Court	NSW	1994	Appeal against the granting of a licence to 'take and kill' protected fauna in the course of forestry operations. Uncertainty over impacts on flora and fauna.
<i>Lakatoi Universal Pty v Walker Ensile and Walker Consolidated Investments</i>	Supreme Court	NSW	2000	Proposal for re-zoning to facilitate residential subdivision of 1200 lots, where stormwater pollution of a nearby protected river was a key issue. Uncertainty over impacts on flora and fauna.
<i>Cooroy Golf Club & Anor v. Noosa Shire Council</i>	Planning and Environment Court	QLD	2005	Appeal against Council refusal to allow rezoning for development of motel and residential subdivision in water supply catchment. Uncertainty alleged over water quality impacts, but no uncertainty found.
<i>Telstra Corporation Ltd v Caloundra City Council & Anor</i>	Planning and Environment Court	QLD	2004	Appeal against Council approval of development of mobile phone base station. Uncertainty over impacts of development (EMF exposure).
<i>Shannon & Ors v Dalby Town Council & Ors</i>	Planning and Environment Court	QLD	2004	Appeal against approval by Council of development of grain ethanol plant. Uncertainty alleged over safety of plant, but no uncertainty found.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Histpark Pty Ltd & Anor v Maroochy Shire Council</i>	Planning and Environment Court	QLD	2002	Appeal against refusal by Council to consent to an application to rezone a site, involving reconfiguring lots, and for operational works for earthworks and storm water drainage, where the site was located near environmentally sensitive areas and consisted of acid sulphate soils. Uncertainty over impacts of development on estuarine environment.
<i>Energex Ltd v Logan City Council & Ors</i>	Planning and Environment Court	QLD	2002	Appeal against refusal by Council to consent to the development of a modular electricity substation, including transmission through overhead wires. Uncertainty over impacts of development (EMF exposure).
<i>Elliot v Brisbane City Council & Anor</i>	Planning and Environment Court	QLD	2002	Appeal against Council consent to a residential development in an environmentally sensitive area. Uncertainty over impacts on wetland environments; flora and fauna.
<i>Edgarange Pty Ltd v Redland Shire Council</i>	Planning and Environment Court	QLD	2001	Appeal against refusal by Council to consent to residential subdivision in close proximity to two poultry farms. Conflicting scientific opinion about odour impacts.
<i>Armdrott Pty Ltd v Caboolture Shire Council & Anor</i>	Planning and Environment Court	QLD	2000	Appeal against Council refusal of planning consent for existing composting works. Uncertainty over impacts of novel development (composting facility) on water resources and odour.
<i>Yamauchi v Jondaryan Shire Council and Ors</i>	Planning and Environment Court	QLD	1998	Appeal against refusal by Council to grant development consent for an intensive piggery. Conflicting scientific opinion about odour impacts.

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<i>Yulara v Rockhampton City Council</i>	Planning and Environment Court	QLD	1999	Appeal against refusal by Council to allow rezoning of land from cattle-holding paddocks to residential, where the site was near an existing meatworks. Conflicting scientific opinion about odour impacts.
<i>Holts Hill Quarries Pty Ltd v Gold Coast City Council and Ors</i>	Planning and Environment Court	QLD	1999	Appeal against refusal by Council of rezoning and planning consent for development of a quarry and treatment plant. Uncertainty over impacts on the flora and fauna.
<i>CSR Limited v Caboolture Shire Council & Ors</i>	Planning and Environment Court	QLD	2001	Appeal against refusal by Council of planning consent for an extractive industry, where there were potential water quality impacts. Uncertainty over impacts on the water resources; flora and fauna.
<i>Theo v Caboolture Shire Council</i>	Planning and Environment Court	QLD	2001	Appeal against approval by Council of planning application to develop a sterilisation and decontamination plant that would use radioactive materials. Uncertainty over impacts of novel development (sterilisation and decontamination plant).
<i>Des Allen & Co Funeral Directors Pty Ltd v Council of City of Bundaberg</i>	Planning and Environment Court	QLD	2000	Appeal against refusal by Council of planning approval to install a cremator at an existing funeral parlour. Uncertainty over reliability of cremator.
<i>Telstra Corporation Limited v Pine Rivers Shire Council and Ors</i>	Planning and Environment Court	QLD	2001	Appeal against Council approval of development of mobile phone base station. Uncertainty over impacts of development (EMF exposure).
<i>Optus Communications v The Corporation of the City of Kensington and Norwood</i>	Environment, Resources and Development Court	SA	1998	Application for review of Council decision to refuse permit to develop a mobile phone base station.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Conservation Council of SA Inc v Development Assessment Commission and Tuna Boat Owners Association of SA</i>	Environment, Resources and Development Court	SA	1999	Appeals against decision to allow development of tuna farms. Uncertainty over impacts of aquaculture development.
<i>Port Vincent Progress Association Inc & Rodney William Button v Development Assessment Commission</i>	Environment, Resources and Development Court	SA	1999	Appeals against decision to allow two ten hectare aquaculture sites for oyster cultivation. Uncertainty over impacts of aquaculture development on coastal environments.
<i>Telstra Corporation Limited & Tony Izzo Associates v District Council of Mallala and Two Wells & Districts Tourism and Trade Association Inv</i>	Environment, Resources and Development Court	SA	2000	Appeal against Council refusal to consent to the construction of a telecommunications tower.
<i>Commercial Crash Repairs Pty Ltd v Corporation of the City of Adelaide</i>	Environment, Resources and Development Court	SA	2000	Appeal against refusal of preliminary consent to development of a "vehicle preparation and spray painting workshop". Uncertainty over odour impacts of development.
<i>Aldekerk Pty Ltd v City of Port Adelaide Enfield and Environment Protection Authority</i>	Environment, Resources and Development Court	SA	2000	Appeal against refusal of consent for development of a small furnace to be used for cremation within an existing funeral home. Conflict between expert evidence and community concern over odour and smoke impacts of development.
<i>MOL Pty Ltd and Averil Garrett v City of Mitcham and Conservation Council of SA</i>	Environment, Resources and Development Court	SA	2002	Appeal against Council decision to refuse provisional consent to development of vineyards. Uncertainty of impacts on water resources.
<i>Tuna Boat Owners Association of SA Inc v Development Assessment Commission</i>	Supreme Court	SA	2000	Appeal following decision in <i>Conservation Council of SA Inc</i> case, above. Uncertainty over impacts of aquaculture development on coastal environments.
<i>Lukin Enterprises Pty Ltd v DAC & Ors</i>	Environment, Resources and Development Court	SA	2002	Appeal against refusal of consent for development of tuna cages in the waters of a bay. Uncertainty over impacts of aquaculture development on coastal environments.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Pidun v DAC & Struck & Minister of Agriculture, Food and Fisheries</i>	Environment, Resources and Development Court	SA	2004	Appeal against conditions imposed on oyster farm development, where possibilities of damage to seagrass communities and escape of feral oysters at issue. Uncertainty over impacts of development on coastal environments.
<i>Skye Environmental Services Pty Ltd v Frankston City Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2004	Application for review of failure to determine permit application for use of existing quarry as a landfill. Uncertainty over effects of development on potable groundwater table.
<i>Kealy v West Wimmera Shire Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2003	Application for review of decision to permit drain maintenance works and construction of new drains and a dam, where salt pollution of freshwater and damage to vegetation were at issue. Alleged uncertainty over development impacts on wetland.
<i>Kroger v Southern Rural Water</i>	Civil and Administrative Tribunal - Planning List	VIC	2001	Application for review of a decision by the Water Authority to deny the applicant a licence to construct a extremely large ornamental dam. Uncertainty over impacts on fish species.
<i>Optus Mobile Ltd v Whittlesea City Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2003	Appeal against Council decision to allow relocation and extension of mobile phone tower.
<i>Connell Wagner Pty Ltd v A Birrell & Ors</i>	Civil and Administrative Tribunal - Planning List	VIC	1998	Application for review of Council refusal to allow development of mobile phone tower.
<i>K Carlyon and Ors v Hutchison 3G Australia Pty Ltd & City of Casey</i>	Civil and Administrative Tribunal - Planning List	VIC	2002	Application for review of Council refusal to allow development of mobile phone tower.

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<i>Skinner v Warrnambool City Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2002	Application for review of Council refusal to allow development of a small freshwater wetland, with potential for impacts on nearby saltwater marshes. Uncertainty over impacts of novel development (artificial wetland).
<i>29 Darling St Pty Ltd v Stonnington City Council and Ors</i>	Civil and Administrative Tribunal - Planning List	VIC	2001	Application for review of Council failure to grant a permit within the prescribed time for residential flats and a basement car park. Uncertainty over impacts of basement car park.
<i>Port Phillip Conservation Council Inc v Shire of Mornington Peninsula</i>	Civil and Administrative Tribunal - Planning List	VIC	2000	Application for review of Council decision to grant permission for development of lifesaving club patrol base. Uncertainty over impacts on coastal environments.
<i>Hyett v Shire of Corangamite</i>	Civil and Administrative Tribunal - Planning List	VIC	1999	Review of a decision to grant a permit for a mobile phone base station.
<i>Lucent Technologies v Maribryong City Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2001	Review of a decision to grant a permit for a mobile phone base station.
<i>Samir Cabbabe v Baw Baw Shire Council & Melbourne Water</i>	Civil and Administrative Tribunal - Planning List	VIC	2001	Application for review of decision to refuse a planning permit for a second dwelling on a site. Uncertainty over impacts of subdivision development (waste absorption by the environment).
<i>O'Hagan v Yarra Ranges Shire Council</i>	Civil and Administrative Tribunal - Planning List	VIC	2003	Review of a decision to grant a permit for a television tower.

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<i>Rumpf v Mornington Peninsula Shire Council and Ors</i>	Supreme Court	VIC	2000	Appeal against decision in <i>Port Phillip Conservation Council</i> , above. Uncertainty over impacts on coastal environments.
<i>Rashleigh v Environment Protection Authority</i>	Administrative Appeals Tribunal	ACT	2004	Review of decision to refuse an application for a licence to take water from a bore on land of which the applicant was one of the lessees. Uncertainty over impact of groundwater extraction on downstream dependent ecosystems.
<i>Christine Grishin v Conservator of Flora and Fauna and Ors</i>	Administrative Appeals Tribunal	ACT	1998	Appeal against decision to refuse a permit to allow horses to enter an area of bushland. Uncertainty over impacts on bushland.
<i>Brooks Lark & Carrick v Clarence City Council</i>	Resource Management and Planning Appeal Tribunal	TAS	1997	Appeal against conditions imposed on approval of subdivision, where effects of effluent on groundwater and lagoon at issue. Uncertainty over impacts on coastal and lagoon environments.
<i>Hall Earthmoving Pty Ltd v Brighton Council</i>	Resource Management and Planning Appeal Tribunal	TAS	1999	Appeal against refusal of permit for a quarry. Uncertainty over impacts on flora and fauna.
<i>C Heiermann v Sorell Council</i>	Resource Management and Planning Appeal Tribunal	TAS	1998	Appeal against refusal of approval of subdivision, where impacts of effluent system and disruption of flora and fauna species at issue. Uncertainty over impacts on coastal and wetland environments.
<i>Tasmanian Conservation Trust v Minister for Primary Industries, Water and Environment</i>	Resource Management and Planning Appeal Tribunal	TAS	2003	Appeal against a Catchment Water Management Plan for non-compliance with a policy specified under the <i>Water Management Act 1999</i> . Uncertainty over impacts on riverine environments.

Case name	Decision-making body	Jurisdiction	Year	Decision-making context
<i>Tasmanian Conservation Trust Inc v State of Tasmania</i>	Supreme Court	TAS	2000	Assertion that tourism proposal provided for in a nature reserve management plan was outside the scope of the objectives and policies of the relevant legislation, one of which was the precautionary principle. Uncertainty over impacts of tourism development.
<i>R v Resource Planning and Development Commission; ex parte Aquatas Pty Ltd</i>	Supreme Court	TAS	1998	Appeal to quash decision to approve amendments to a municipal planning scheme on the grounds of failing to take into account the precautionary principle. Uncertainty over impacts on water resources.
<i>Coles Bay Marina Association & Anor v Hawkins & Anor</i>	Supreme Court	TAS	1999	Appeal against Tribunal decision reversing decision of a Council to allow a marina. Uncertainty over impacts on coastal environments.
<i>R v Land Use Planning Review Panel; ex parte MF Cas Pty Ltd</i>	Supreme Court	TAS	1998	Review of decision to impose buffer zones around quarry development that prevented residents from subdividing land. Uncertainty over impacts on coastal environments.
<i>St Ives Development Pty Ltd v City of Mandurah</i>	Town Planning Appeal Tribunal	WA	2003	Appeal against Council decision refusing permission to alter nature of wetland from seasonal to permanent. Uncertainty over impacts on wetland.
<i>Bridgetown/ Greenbushes Friends of the Forest v Conservation and Land Management and Anor</i>	Supreme Court	WA	1997	Proposal for logging and associated forest operations. Uncertainty over impacts of forestry on flora and fauna.
<i>South-West Forest Defence Foundation Inc v Executive Director of the Department of Conservation and Land Management and Anor</i>	Supreme Court	WA	1996	Proposal for logging and associated forest operations. Uncertainty over impacts of forestry on flora and fauna.

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<i>Bridgetown/ Greenbushes Friends of the Forest Inc and Anor v Executive Director of the Department of Conservation and Land Management and Ors</i>	Supreme Court (Full Court)	WA	1997	Appeal from decision of single judge in <i>Bridgetown/ Greenbushes Friends of the Forest</i> , see above. Uncertainty over impacts of forestry on flora and fauna.
<i>Re National Parks and Nature Conservation Authority; ex parte McGregor and Anor</i>	Supreme Court	WA	2001	Review of decision not to renew licences for the conduct of commercial safari boat tours. Uncertainty over impacts on flora and fauna; rivers.
<i>Arno Blank and Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2000	Review of decision to grant a fishing licence that excluded certain areas from the licence. Uncertainty over impacts on fishery and marine environment.
<i>Re Bolding and Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2001	Review of decision to grant a fishing licence that restricted the number of nets allowed to be used. Uncertainty over impacts on fishery and marine environment.
<i>Re Mohr and Great Barrier Reef Marine Park Authority and Marcum and Others</i>	Administrative Appeals Tribunal	CTH	1998	Review of decision to refuse a permit for a mariculture operation in sections of the Great Barrier Reef Marine Park. Uncertainty over impacts of mariculture development.
<i>Dow Chemical (Australia) Ltd and Director, Chemicals Notification and Assessment</i>	Administrative Appeals Tribunal	CTH	1999	Review of decision to categorise chemical as a carcinogen and mutagen.
<i>Re Dixon and Ors and Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2000	Review of decision to place area restrictions on fishing permit. Uncertainty over impacts on fishery and marine environment.
<i>Re Latitude Fisheries Pty Ltd and Anor and Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2000	Review of decision to refuse to grant a fishing licence. Uncertainty over impacts on fishery and marine environment.

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<i>Re Ajka and Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2001	Review of decision to refuse to grant a fishing licence. Uncertainty over impacts on fishery and marine environment.
<i>Re Justice and Australian Fisheries Management Authority and Anor</i>	Administrative Appeals Tribunal	CTH	2002	Review of decision to place area restrictions on fishing permit. Uncertainty over impacts on fishery and marine environment.
<i>De Brett Investments Pty Ltd and Anor and Australian Fisheries Management Authority and Anor</i>	Administrative Appeals Tribunal	CTH	2004	Review of fishing licence conditions relating to possession of shark fins. Uncertainty over impacts on fishery.
<i>Green v Australian Fisheries Management Authority</i>	Administrative Appeals Tribunal	CTH	2004	Review of decision to refuse to grant a fishing licence. Uncertainty over impacts on fishery.
<i>Friends of Hinchinbrook Society Inc v Minister for Environment and Others</i>	Federal Court of Australia	CTH	1997	Review of decision to grant consent for development of a resort in a World Heritage area. Uncertainty over impacts on sites of natural and world heritage.
<i>Booth v Bosworth</i>	Federal Court of Australia	CTH	2001	Review of impact of electric grid constructed to protect a lychee orchard from damage by flying foxes. Uncertainty over impacts on flora and fauna; world heritage areas.
<i>Ajka Pty Ltd v Australian Fisheries Management Authority</i>	Federal Court of Australia	CTH	2003	Appeal from decision of Administrative Appeals Tribunal in <i>Re Ajka and Australian Fisheries Management Authority</i> , above.

New Zealand Cases				
<i>McIntyre v Christchurch City Council</i>	Planning Tribunal	NZ	1996	Appeal from decision of Council to allow construction of a telecommunications tower.
<i>Trio Holdings v Marlborough District Council</i>	Planning Tribunal	NZ	1996	Appeal against refusal of Council to allow a marine farm of mussel and sponge on a feeding site important for a threatened species. Uncertainty over impacts of mussel and sponge farm.
<i>Shirley Primary School v Telecom Mobile Communications</i>	Environment Court	NZ	1999	Appeal from decision of Council to allow construction of a telecommunications tower. Uncertainty over impacts of cellular radio base station emitting RFR.
<i>Ngati Kaho Ki Whangaroa Cooperative Society v Northland Regional Council</i>	Environment Court	NZ	2001	Appeal against decision of Council grant consent for coastal oyster farm, where there was a lack of information on the carrying capacity of the marine environment. Uncertainty over impacts of oyster farming.
<i>Kemp v Queenstown-Lakes District Council</i>	Environment Court	NZ	1999	Objections to application for resource consent for commercial jet-boat operations. Uncertainty over impacts on flora and fauna.
<i>Auckland Yacht and Boating Association v Waikato Reg. Council</i>	Environment Court	NZ	2002	Challenge to variation to a proposed regional coastal plan, particularly categorisation of existing marine farms. Uncertainty over continuing impacts of existing development (marine farms).
<i>Henry v Kapiti Coast District Council</i>	Environment Court	NZ	2003	Appeal against decision of Council not to grant consent for subdivision. Uncertainty over impacts on marine environment.
<i>Bleakley v Environmental Risk Management Authority</i>	High Court	NZ	2001	Appeal against approval for field tests of a genetically modified organism. Uncertainty over impacts on environment and human health (GMOs).

European Union Cases				
<i>Deponiezweckverband Eiterköpfe v Land Rheinland-Pfalz (C-6/03)</i>	Court of Justice	EC	2005	Whether it was permissible for domestic landfill regulations to be more stringent than a European-level Directive. Interaction of precautionary principle with other principles of the EC Treaty (proportionality).
<i>Commission of the European Communities v Federal Republic of Germany (C-463/01)</i>	Court of Justice	EC	2004	Action against German Government's national provisions on reusable drinks packaging. Precautionary principle as justification for exercise of national discretion in implementation of environmental policy. Interaction of precautionary principle with other principles of the EC Treaty (proportionality; internal free trade).
<i>Commission of the European Communities v Kingdom of the Netherlands (C-41/02)</i>	Court of Justice	EC	2004	Application for declaration of lawfulness of Dutch policy under national provisions on use of food additives. Uncertainty over impacts on human health (food additives). Whether precautionary principle justifies national provisions derogating from EC legislation.
<i>Criminal Proceedings against Antonio Niselli (C-457/02)</i>	Court of Justice	EC	2004	Reference to the ECJ for determination of whether certain scrap metals could be classified as "waste". Precautionary principle as basis for broad interpretation of "waste".
<i>Commission of the European Communities v France (C-280/02)</i>	Court of Justice	EC	2004	Action seeking declaration that French Government's failure to identify certain areas as sensitive areas with respect to eutrophication; and insufficiently treat urban water discharges constituted a breach of European Council Directive. Uncertainty over impacts of nutrient input on freshwater environment.

<i>Van der Walle and others v Région de Bruxelles-Capitale (C-1/03)</i>	Court of Justice	EC	2004	Reference to the ECJ for determination of whether hydrocarbons leaked into soil could be classified as "waste". Precautionary principle as basis for broad interpretation of "waste".
<i>Landelijke Vereniging tot Behoud van de Waddenzee, Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij (C-127/02)</i>	Court of Justice	EC	2004	Action in litigation against licences granted for mechanical cockle fishing in a special protection area. Uncertainty over impacts on natural habitats and wild flora and fauna.
<i>Bellio F.Ili Srl and Prefettura di Treviso (C-286/02)</i>	Court of Justice	EC	2004	Interpretation of restrictions on feeding of animal protein – allowable contamination levels. Uncertainty over impacts on human health of feeding of protein.
<i>Commission v French Republic (C-24/00)</i>	Court of Justice	EC	2004	Declaration that French Government had breach European level obligations to ensure free movement of foodstuffs. Uncertainty over impacts on human health (food additives). Interaction of precautionary principle with other principles of the EC Treaty (proportionality; internal free trade).
<i>Criminal Proceedings against Greenham and Abel (C-95/01)</i>	Court of Justice	EC	2004	Interpretation of import restrictions on foodstuffs containing additives. Uncertainty over impacts on human health (food additives). Interaction of precautionary principle with other principles of the EC Treaty (proportionality; internal free trade).
<i>National Farmers' Union v Secretariat general du gouvernement (C-241/01)</i>	Court of Justice	EC	2002	Action to annul French Government's implicit refusal to lift bans on British beef. Uncertainty over impacts on human health (bovine products/BSE).

<i>Monsanto Agricultura Italia SpA and Ors v Presidenza del Consiglio dei ministri and Ors (C-236/01)</i>	Court of Justice	EC	2003	Action against decision of Italian government to prohibit foods made from genetically modified maize being placed on the market, although they had received consent under a European-level procedure. Uncertainty over impacts on human health (GMO residue in foodstuffs). Interaction of precautionary principle with other principles of EC Treaty (proportionality).
<i>Commission of the European Communities and Ors v French Republic (C-1/00)</i>	Court of Justice	EC	2001	Appeal against refusal of French Government to lift a ban on British beef products. Uncertainty over impacts on human health (bovine products/ SE). Interaction of precautionary principle with other principles of the EC Treaty (internal free trade).
<i>Association Greenpeace France v Others v Ministere de l'Agriculture et de la Peche and Others (C-6/99)</i>	Court of Justice	EC	2000	Application to reverse a decision allowing the placing on the market of genetically modified maize. Uncertainty over impacts on the environment and human health (GMOs).
<i>United Kingdom of Great Britain & Northern Ireland v Commission of the European Communities & Council of the EU (The BSE Decision) (C-180/96)</i>	Court of Justice	EC	1998	Appeal against a Regulation of the European Commission which prohibited the UK exporting bovine products. Uncertainty over impacts on human health (bovine products/BSE). Interaction of precautionary principle with other principles of EC Treaty (proportionality).
<i>Kingdom of Spain v Council of the European Union (C-179/95)</i>	Court of Justice	EC	1999	Appeal against increase of fishing and anchovy quotas. Uncertainty over impacts on fish stocks.
<i>Kingdom of Denmark v Commission of the European Commission (C-3/00)</i>	Court of Justice	EC	2003	Application for annulment of Commission decision on Danish national provisions on the use of sulphites, nitrites and nitrates in foodstuffs. Whether precautionary principle justifies national provisions derogating from EC legislation.

<i>Palin Granit Oy v Vehmassalon kansanterveytyon kuntayhtymän hallitus (C-9/00)</i>	Court of Justice	EC	2002	Reference to the ECJ for determination of whether stone left over from stone quarrying could be classified as “waste”. Precautionary principle as basis for broad interpretation of “waste”.
<i>Commission of the European Communities v Kingdom of Denmark (C-192/01)</i>	Court of Justice	EC	2003	Appeal against Danish national provisions that limited the addition of vitamins and minerals to foodstuffs. Uncertainty over impacts on human health (vitamin and mineral additives to foodstuffs). Interaction of the precautionary principle with other principles of EC Treaty (proportionality; internal free trade).
<i>Eurostock Meat Marketing v Department of Agriculture for Northern Ireland (C-477/98)</i>	Court of Justice	EC	2003	Lawfulness of seizure and destruction of bovine heads, which constituted “specified risk material”, by Department of Agriculture. Uncertainty over impacts on human health (bovine products). Interaction of precautionary principle with Commission decisions not yet in force.
<i>Kriminalreti Frederikshavn (Denmark) v Ditlev Bluhme (The Danish Bees Case) (C-67/97)</i>	Court of Justice	EC	1998	Prosecution for the unlawful keeping of bees. Uncertainty over impacts on biological diversity Interaction of precautionary principle with other principles of EC Treaty (internal free trade).
<i>Criminal Proceedings against Giancarlo Fornasar and Others (C-318/98)</i>	Court of Justice	EC	2000	Reference to the ECJ for determination whether a particular substance could be classified as “hazardous waste”. Uncertainty over impacts on environment from hazardous waste.
<i>Opinion 2/00 of the Court (C-2/00)</i>	Court of Justice	EC	2001	Opinion concerning whether the European Communities had competence to conclude the <i>Cartagena Protocol to the Convention on Biological Diversity</i> . Examination of definition of precautionary principle in <i>Cartagena Protocol</i> .

<i>Criminal Proceedings against Sandoz BV (C-174/82)</i>	Court of Justice	EC	1983	Whether a Danish restriction on the addition of vitamins and minerals to foodstuffs was justified. Uncertainty over impacts on human health (vitamin and mineral additives to foodstuffs).
<i>Malagutti-Vezinhet SA v Commission of the European Communities (T-177/02)</i>	Court of First Instance	EC	2004	Application for compensation suffered by applicant when Commission issued alert notifying pesticide presence in apple consignment. Uncertainty over impacts on human health (pesticides in foodstuffs).
<i>Alpharma Inc v Council of the European Union (T-70/99)</i>	Court of First Instance	EC	2002	Appeal against regulation banning the addition of bacitracin zinc, an antibiotic used as a growth promoter, to animal feedstuffs. Uncertainty over impacts on human health (antibiotic additives in animal feedstuffs).
<i>Pfizer Animal Health v Council of the European Union (T-13/99)</i>	Court of First Instance	EC	2002	Appeal against regulation banning the addition of virginiamycin to animal feedstuffs. Uncertainty over impacts on human health (antibiotic additives in animal feedstuffs).
<i>Artegodan GmbH and Ors v Commission of the European Union (T-74/00)</i>	Court of First Instance	EC	2002	Appeal against withdrawal of authorisation for medicinal products containing anorectic agents. Uncertainty over impacts on human health (anorectic agents in medicinal products). Interaction of precautionary principle with other principles of EC Treaty (proportionality).
<i>EFTA Surveillance Authority v Kingdom of Norway (E-3/00)</i>	EFTA Court	EEA Agreement	2001	Lawfulness of Norwegian legislation that prohibited the import of corn flakes with nutrient additives. Uncertainty over impacts on human health (vitamin and mineral additives to foodstuffs). Interaction of precautionary principle with principles of EEA Treaty (internal free trade).

North American Cases				
<i>Canada Ltée (Spraytech, Société d'arrosage) v Town of Hudson</i>	Supreme Court of Canada	Canada	2001	Legality of town by-law restricting the use of pesticides within its perimeter. Uncertainty over health impacts of pesticide.
<i>Western Canada Wilderness Committee v British Columbia (Minister of Forests)</i>	British Columbia Supreme Court	Canada	2002	Appeal against decision of Ministry of Forests to approve timber harvesting. Uncertainty over impacts of logging on fauna (spotted owl).
<i>Western Canada Wilderness Committee v British Columbia (Ministry of Forests, South Island Forest District)</i>	British Columbia Court of Appeal	Canada	2003	Appeal against judgment in <i>Western Canada Wilderness Committee</i> (2002), above. Uncertainty over impacts of logging on fauna (spotted owl).
<i>Millership v British Columbia</i>	British Columbia Supreme Court	Canada	2003	Claim for compensation for personal injuries allegedly caused by fluoridation of public water supplies and claims against validity of legislation that permits this treatment. Impacts of fluoridation of public water supplies.
<i>Canadian Parks and Wilderness Society v Canada (Minister of Canadian Heritage)</i>	Federal Court of Appeal	Canada	2003	Appeal against approval of proposal to construct a road through Wood Buffalo National Park, a declared UNESCO World Heritage Site. Uncertainty over impacts of proposed road through national park.
<i>Assn of Management v Ministry of Health and Long-term care</i>	Ontario Labour Relations Board	Canada	2003	Exercise of employees' right to refuse work in a building alleged to expose them to carcinogenic toxins and other risks. Uncertainty over workplace safety.
<i>Weir v Environmental Appeal Board</i>	British Columbia Supreme Court	Canada	2003	Appeal against decision to issue permit for pesticide application to trees in forest areas. Uncertainty over health impacts of pesticide.

<i>R v Kingston (City)</i>	Court of Appeal for Ontario	Canada	2004	Challenge to failure of City of Kingston to mitigate environmental effects of closed landfill. Uncertainty regarding impacts on fish stock (landfill leachate). Interpretation of Fisheries Act in light of the precautionary principle.
<i>Homalco Indian Band v. British Columbia (Minister of Agriculture, Food and Fisheries)</i>	British Columbia Supreme Court	Canada	2005	Challenge to amendment of fish licence that changed the species of fish covered. Uncertainty over impacts on fish stocks.
<i>Ecology Action Centre Society v Canada (Attorney-General)</i>	Federal Court	Canada	2004	Application to set aside an Order that had the effect of removing time restrictions on groundfish fishing in certain areas. Uncertainty over impacts on fish stocks.
<i>Imperial Oil Limited v Vancouver (City)</i>	British Columbia Supreme Court	Canada	2005	Challenge to City's refusal to issue permit for gas station development without the applicant signing an "Off-Site Soils Agreement" relating to contaminated land. Interpretation of City's authority to impose conditions in light of the precautionary principle.
<i>R v Douglas</i>	British Columbia Provincial Court	Canada	2004	Prosecution for removing sand and gravel, thus disturbing fish habitat – a Fisheries Act offence. Uncertainty over impacts on fish stocks.
<i>Croplife Canada v Toronto (City)</i>	Ontario Superior Court of Justice	Canada	2004	City by-laws purported to regulate pesticide use within city limits, referring to the precautionary principle. Uncertainty over impacts on human health (pesticides).
<i>The Committee for Reasonable Regulation of Lake Tahoe v Tahoe Regional Planning Agency</i>	US District Court for the District of Nevada, Reno Division	USA	2004	Challenge to Tahoe Regional Planning Agency's adoption of a new scenic review system, which regulates aspects of residential housing in shoreland and littoral areas. Precautionary principle a ground for justifying the new scenic review system.

<i>Natural Resources Defence Council v Donald Evans, Secretary of Commerce</i>	US District Court for the Southern District of New York	USA	2003	Consistency of Fishery Management Plan with fisheries legislation, relating to unrestricted use of certain fishing equipment. Uncertainty over impacts on fish stocks.
<i>National Audobon Society v Donald Evans, Secretary of Commerce</i>	US District Court for the District of Columbia	USA	2003	Challenge to regulations implementing a fisheries management plan for Atlantic bluefin tuna. Uncertainty over impacts on fish stocks.
<i>In the Matter of Water Use Permit Applications</i>	Supreme Court of Hawai'i	USA	2000	Applicability of Hawai'ian constitutional provision regarding conservation to groundwater resources. Uncertainty over impacts on water resources.