

6. CITY PLAN - FURTHER DELEGATIONS

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The purpose of this report is to recommend to the Council that two new delegations be made to the City Plan References Subcommittee in relation to matters arising out of references to the City Plan.

BACKGROUND

At its December 2001 meeting the Council delegated to the City Plan References Subcommittee the power “...to consider and resolve any consent order requested in respect of any proceedings before the Environment Court regarding any reference on the Proposed City Plan”.

Two matters have arisen recently in relation to orders under section 293 of the Resource Management Act 1991 and appeals to the High Court arising out of City Plan references where it is considered appropriate that the Council make further delegations to the City Plan References Subcommittee to make decisions on the Council in relation to those two matters.

SECTION 293

Section 293 of the Resource Management Act 1991 provides that the Environment Court, on the hearing of any appeal against the provisions of the City Plan, may direct that changes be made to the Plan.

When the Court makes such a direction, the Council gives public notice in respect of any proposed change so that the public generally can have an opportunity to take part in the process. This occurred recently with Montgomery Spur. The Environment Court would then conduct a hearing of interested parties and issue on decision.

There is a report in this agenda dealing with Kennedys Bush being an example of when the Court may exercise this power.

The Council does not have any formal process in place for dealing with such situations whereby the officers can be given directions by elected members as to the position officers should be taking before the Environment Court when it decides to exercise this section 293 power. At the present time officers would need to present a report to the Council on each individual occasion.

As such initiatives often involve a form of environmental compensation which may include the Council acquiring ownership of land for reserve purposes, then the views of the Parks, Gardens and Waterways Committee as to the appropriateness or otherwise of the Council acquiring land for reserve or park purposes in such circumstances would be relevant.

To enable these section 293 issues to be resolved in a timely way, it is considered appropriate that the power be given to the City Plan References Subcommittee to make decisions on such section 293 initiatives by the Environment Court. The Subcommittee would need to consult with any relevant standing committees.

If there was to be any disagreement between the subcommittee and a standing committee on a particular matter then it would be referred to the Council for decision.

CITY PLAN HIGH COURT APPEALS

From time to time appeals may be filed in the High Court by submitters against Environment Court decisions. As the Council is always a party in such Environment Court decisions, then inevitably it will be a party in any High Court proceedings, although its interest in particular appeals will vary in circumstances. However, the Council needs to be in a position to formally advise the Court as to what position it takes in relation to a particular set of proceedings.

Again at the present time, there is no formal process for instructions to be given to the Council's lawyers and to the position to be taken before the Court, and this is also an area where it is considered appropriate that a delegation could be made at the City Plan References Subcommittee to provide such direction to Council staff.

Staff

- Recommendation:**
1. That the City Plan References Subcommittee be delegated the power to make decisions, on behalf of the Council, in relation to any proposed section 293 matters by the Environment Court in consultation with relevant Council standing committees. This delegation shall not apply where there is disagreement between a Standing Committee and the Subcommittee.
 2. That the City Plan References Subcommittee be delegated the power to make decisions, on behalf of the Council, in relation to any High Court proceedings arising out of decisions by the Environment Court on the City Plan.

Chairman's

Recommendation: That the above recommendation be adopted.