

## REPORT OF THE LEGAL SERVICES MANAGER

### 1. RESOURCE MANAGEMENT ACT DELEGATIONS

RR 8115

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Corporate Plan Output: Legal Advice	

The purpose of this report is to seek two delegations from the Council, one to the Resource Management Hearings Panel and the other to the Resource Management Officer Sub-Committee.

Regarding the former, the Council has had for many years a system of delegations whereby the Resource Management Officer Sub-Committee can decide to refer any application for a resource consent for which the Sub-Committee has the power to make a decision to the Resource Management Hearings Panel for a hearing and decision.

Recently an issue has arisen as to whether or not that delegation is sufficient authority for the Resource Management Hearings Panel then, in turn to make decisions on that resource consent application, including a decision whether or not to publicly notify that application.

From the Council's perspective, its practice has always been that the Panel could make decisions in relation to that resource consent application where the officers have declined to deal with that application. The proposed delegation makes it clear that the Panel has those powers.

The second matter relates to the issue of outlying plans submitted to the Council by requiring authorities such as government departments.

Last year the Resource Management Act was amended by meeting a new s.176A which provides that where there was to be a public work, project or work to be constructed on designated land, then the requiring authority had to submit to the Council an outline plan which allowed the Council to request changes to that public work before construction commenced.

S.176A went on to provide that an outline plan did not need to be submitted to the Council if the proposed public work had otherwise been approved under the Resource Management Act, or details of the proposed public work were incorporated into the designation or "... the territorial authority waives the requirement".

It is with regard to the Council's ability to waive the requirement for an outline plan, and the ability to request changes that a delegation has sought now to the Resource Management Officer Sub-Committee.

Presently neither a Resource Management Hearings Panel nor the Officer Sub-Committee have the power to waive the requirement for an outline plan. The need to consider such a waiver can arise where, for example, a proposal to add a small building or classroom to a State school which is designated and the addition complies with the Plan rules or any breach of a Plan rule is very minor.

In that case the Council may wish to consider waiving the requirement for the outline plan which would have to show the length, shape and bulk of the classroom, its location, provision for vehicular access, circulation and parking, and landscaping.

- Recommendation:**
1. That the Council delegate to the Resource Management Hearings Panel the power to hear and make decisions on any resource consent application referred to the Panel by the Resource Management Officer Sub-Committee, including the power to make decisions on any notification issues in relation to that application.
  2. That the Council delegate to the Resource Management Officer Sub-Committee its powers under s.176A(2)(a) of the Resource Management Act 1991 to waive the requirement for an outline plan.

**CONSIDERED THIS 22ND DAY OF JULY 1998**

**MAYOR**