

**3. REPORT ON RESOURCE MANAGEMENT  
LAW ASSOCIATION CONFERENCE, 1-2 OCTOBER**

RR 11021

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Corporate Plan Output: City Planning and Development Policy	

All members of the Resource Management Committee attended the Resource Management Law Association conference in Christchurch on 1 and 2 October. I have reported for the benefit of other Council members on some sessions which may be of interest.

**PROFESSOR MALCOLM GRANT – FINANCIAL CONTRIBUTIONS**

The question of financial contributions to deal with the adverse effects of development has been raised in the planning systems across the western world over the last two decades. While in New Zealand it has been customary for developers to provide the infrastructure, roads, sewers, etc needed by their development, and to make a reserves contribution for reserves in the locality, downstream costs have generally been met out of rates revenue, in that the theory was that there was an improvement in service for all which had been provided by the downstream spending – say, widening of a collector road or installation of a larger pipe, and therefore the costs should be shared by all. The Resource Management Act (s108) provides for the levying of a financial contribution if “the condition is imposed in accordance with the purposes specified in the plan” and “the level of contribution is determined in the manner described in the plan”.

By comparing the regimes for financial contribution in the UK and the USA, Professor Grant opened up some of the philosophic issues raised for the Council in deciding what policy to adopt under the provision.

First of all, he noted that the reason this issue had risen to such prominence was probably the reluctance of governments, both local and national, to raise direct taxes to pay for some of the environmental actions necessary to mitigate the costs of development. He also noted that this raised complex equity questions between those who gained entry to the system as owners of developed property with a comparatively minimal entry cost, and the present generation which may have to pay for a greater proportion of the community goods than their predecessors by way of a levy on development. He also argued that this issue was further complicated in that levies were often only a fraction of the total costs of development, and a number of factors other than development costs were also reflected in the final price.

The question of expenditure of monies so raised was also discussed by Professor Grant. British legislation allowed wide discretion on financial or material contributions to planners, while in the USA it was necessary to establish a causal nexus between the development and the environmental mitigation or benefit funded by the contribution. The system under the Resource Management Act, while not going to the extreme of causal nexus, did suggest some relationship between the effects of the development and the contribution required. Professor Grant suggested that too great a connection between the development and the funding could lead to planning follies – for example, in the UK, where developers are sometimes required to provide “affordable housing” as part of the conditions of consent, this could mean that the housing was provided in the middle of an industrial estate. Another example given was where, if funding part of a bus service was included as a condition, the route might not be set on the roads most suitable for carrying the service, but on the precise roads where the paying development was located.

On the other hand, if no connection existed between the development and the requirement for services, one was getting very close to a general power to tax, and this might be strongly resisted by the development community.

A further series of problems were associated with what might be called “collectivisation”. That is, while some developments were large enough of themselves to create identifiable adverse effects which needed to be mitigated, and extra demands for services, a great many of them were such that the effects in themselves were marginal but, in company with other similar-sized developments, produced both demand for services and environmental effects. Any regime for collection and expenditure of revenues had to be sufficiently flexible to allow for such effects to be dealt with. An example Councillors may be familiar with comes from the Local Government Act. If locality is too narrowly defined, it might be difficult for a council to show in any one year that monies collected from developments in Avonside or Fendalton were spent in that area. A regime needed to be in place that allowed a fair distribution of the proceeds over time.

This report only covers some of the issues raised by Professor Grant. They will be helpful, I hope, to Councillors in understanding the complexity of issues the City Plan must grasp in dealing with financial contributions.

#### **EQUITY IN THE ENVIRONMENT**

This paper was given at a break-out session by John Milligan, a local barrister. The paper surveyed extensive American research which indicated a propensity for NIMBY-type activities to locate in lower socio-economic areas, while noting that anecdotal evidence suggests that similarly thorough research would provide similar conclusions in New Zealand.

There seemed to be a cycle in which environmentally negative activities were located in low-value areas which, in turn, depressed values further and provided a further incentive for NIMBYs to locate. Mr Milligan's paper discussed the benefits of ensuring that communities shared the pain, which was possible if designation was one of the prime tools for deciding location. This paper was of sufficient interest and significance that I have asked Mr Milligan whether he would be prepared to deliver it to interested Councillors.

#### **CO-MANAGEMENT**

A paper was presented by Badger Bates and Mark Sutton on the way in which the traditional Aboriginal owners have regained control of the Mutawintji National Park which, prior to 1993, had been run by the New South Wales National Parks and Wildlife Service (NPWS). The Mutawintji National Park contains the only population of yellow-footed rock wallabies in New South Wales, as well as significant collections of rock paintings and rock engravings.

Of particular concern to the indigenous population was the access given to the general public to two sacred sites: Snake Cave, a men's initiation site, and Mushroom Rock, a place where women traditionally gave birth.

In the case of Mutawintji, not only indigenous people were involved; a local industry had grown up, around catering for visitors to the area.

As a result of negotiations, the site was closed for a period while walking tracks were diverted away from the most sacred areas. A course was established for tour guides conducted both by the aboriginal owners and the NPWS, and a certificate is issued after both groups have been satisfied.

Sir Tipene O'Regan, who chaired the session, indicated the importance which indigenous groups attach to "owning their own history", and averred that traditional statutory agencies may not afford the best protection for the "taonga" of indigenous peoples. While the particular issues may not be directly relevant to the Christchurch City Council's activities, the issues of partnership and of the "sacred ground" of the tangata whenua are not ones we can ignore, and which may need imaginative solutions if partnership is to become any more than an ideal to which we give lip service.

Other members may wish to make additions prior to this report being transmitted to the Council.

The Committee **received** the report.