

24. 6. 99

**CITY PLAN HEARINGS COMMITTEE
15 JULY 1998**

**A meeting of the City Plan Hearings Committee
was held on Wednesday 15 July 1998**

PRESENT: Councillor Charles Manning (Chairman),
Councillors Margaret Murray, Newton Dodge
and Ms Maria Tait.

The Committee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

**1. COUNCIL RECOMMENDATION FOR THE DESIGNATION
FOR THE SOUTHERN ARTERIAL**

RR 8873

Officer responsible City Plan Team Leader	Author Tim Harris, Assistant Planner City Plan
Corporate Plan Output: Review of City Plan	

The purpose of this report is to assess the submissions and the other matters set out in Section 171 of the Resource Management Act 1991 and provide a recommendation to Transit New Zealand concerning the designation for the Southern Arterial.

Recommendation: That the recommendation of Transit New Zealand (Requiring Authority) to withdraw the Southern Arterial designation be accepted and approved by the Council.

CONSIDERED THIS 24TH DAY OF JUNE 1999

MAYOR

Christchurch City Council
Legal Services Unit

Opinion

Date: 16 September 1999

From: LEGAL SERVICES MANAGER

To: COUNCIL

**CITY PLAN HEARINGS COMMITTEE
SOUTHERN ARTERIAL DESIGNATION**

At its meeting on 24 June 1999, the Council had before it a report and recommendation from the City Plan Hearings Committee relating to the southern arterial designation. The Committee's recommendation was that the Council recommend that the designation for the southern arterial be withdrawn.

After a brief discussion at that Council meeting, it was apparent that a number of councillors had not had the opportunity to fully consider the implication of this recommendation from the City Plan Hearings Committee.

I advised the Council that the item could be deferred to enable councillors to give consideration to the report and recommendation from the Committee, and that advice was accepted by the Council.

This report and recommendation from the City Plan Hearings Committee is now before the Council for it to make a decision on the recommendation to withdraw the southern arterial designation by the Committee.

The Committee's recommendation has come after hearing evidence and consequently with the application of the rules of natural justice, it is one of those situations when the Council is not simply free to overturn the Committee's recommendation and reach another decision, because the Council itself has not "heard" the evidence. In terms of the Committee's recommendation, the Council has a number of options open to it:

- (a) to accept the recommendation to withdraw the designation as put forward by the Committee;
- (b) to decline to accept the Committee's recommendation and to refer the matter back to the same Committee for a further hearing;
- (c) to decline to accept the recommendation and refer the matter back to a differently constituted committee or to a hearings commissioner to re-hear the evidence;
- (d) to decline to accept the recommendation and for the full Council itself to re-hear the evidence and reach a decision.

The Council does not have other legal options open to it outside of those listed above.

It will be necessary for a councillor to move one of the options set out in (a) to (d) above.

Peter Mitchell
LEGAL SERVICES MANAGER