

22. 6. 2000

**SUPPLEMENTARY REPORT BY THE  
CHAIRMAN OF THE RESOURCE MANAGEMENT COMMITTEE**

**1. CONSENT ORDER DELEGATIONS**

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Corporate Plan Output: Legal Advice	

At its meeting on 4 November 1998 the Council made a number of delegations in respect of the Resource Management Committee.

One of those delegations was:

*“The power to consider and resolve any consent orders requested in respect of any proceedings before the Environment Court arising out of the Council’s decisions on the City Plan.”*

The Council has for the last eight months been working through references made to the Environment Court by parties against some Council decisions on the City Plan.

The Council has retained J G Fogarty QC to act for it in relation to some of these references.

The normal process where references can be settled by agreement between all parties is that the position reached be contained in a consent order which has to be approved by the Environment Court. That has happened on a number of occasions and those consent orders are approved for the Council by the Resource Management Committee, acting under the 1998 delegation.

One of the major references against the Council’s decisions has been by Environment Canterbury and as a consequence of discussions between Environment Canterbury and the City Council, a draft consent order has been formulated which is satisfactory to both of those organisations.

However, there have been a number of parties involved in those particular references under sections 271A and 274 of the Resource Management Act and those parties do not agree with all aspects of that draft consent order. This situation may yet be resolved following further negotiations between all parties concerned.

A number of these section 271A and 274 parties had raised a jurisdictional issue with the Environment Court as to the City Council’s ability to be able to negotiate a position with regard to settling references by way of a consent order and to call evidence in support of a compromise position, rather than in support of the Council’s May 1999 decisions.

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**1 Cont'd**

The Environment Court has this week released a decision which confirms that the Council can settle references through the consent order process, which have the effect of altering the Council's decisions on the City Plan.

Mr Fogarty has advised the Council that given the situation which arose with Environment Canterbury reference whereby there was consensus between the City Council and Environment Canterbury, but not with the other parties, that it would be prudent for the City Council to amend the existing delegation to the Resource Management Committee to clearly authorise that Committee to approve consent orders on behalf of the City Council, notwithstanding all of the other parties to that particular reference may not be in agreement. Also it is necessary for the Committee to be able to instruct Council lawyers and arrange for Council witnesses to put forward a position in support of a compromise position or positions.

Accordingly, it is recommended that the 4 November 1998 resolution be altered by revoking resolution number 2 and substituting the following new resolution:

*"The power to:*

- (a) Consider and resolve any consent orders requested in respect of any proceedings before the Environment Court;*
- (b) To authorise counsel and Council witnesses to call evidence in support of a compromise position or positions in the alternative for the purpose of endeavouring to agree with the parties in terms of a consent order;*

*in respect of any proceedings before the Environment Court arising out of the Council's decisions on the City Plan."*

**Chairman's**

**Recommendation:** That the officer's recommendation be adopted.

**CONSIDERED THIS 22ND DAY OF JUNE 2000**

**MAYOR**