

26. 7. 2001

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

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. RESOURCE CONSENT HEARINGS - APPOINTMENT OF COMMISSIONERS

Officer responsible Legal Services Manager	Author Peter Mitchell DDI 371-1549
--	--

As a result of the recent death of Ms Liz McRostie and the resignation of Councillor Manning there is a need to appoint Commissioners to enable two resource consent hearings which were part-heard as at the date of Ms McRostie's death and Councillor Manning's resignation on Tuesday 17 July 2001, to be concluded without the necessity for the hearings to be recommenced before a differently constituted Council Hearings Panel, and for a consent order to be signed off by the remaining Panel members.

The two part-heard resource consent hearings are:

- (a) A Council Hearings Panel comprising Councillors Manning and Wells and Mr Aaron O'Brien had conducted a hearing in respect of an application by Fendalton Mall Limited to redevelop the Fendalton Mall. The hearing needs to be resumed to consider further evidence.
- (b) A panel comprising Councillors Buist and Manning and Ms McRostie held a hearing in respect of an application by the Cashmere Club Incorporated to use an accessway off Colombo Street. This hearing also needs to be resumed to consider further evidence.

There is also an application by R A Hammersley Limited for a retail development on the corner of Hills and Shirley Roads where a joint CRC/CCC hearing has been completed and a decision to decline consent was made. Subsequently an appeal was filed and now a consent order needs to be signed by this Panel relating to an amended proposal.

The Council's delegation to the Council Hearings Panel to hear resource consent hearings requires that the hearings and decisions be heard and made by a minimum of three members who must attend all days of the hearing and make the decision. Similarly the delegation requires the original Panel to agree to consent orders.

Given the recent death of Ms McRostie and the resignation of Councillor Manning, it is not possible to comply with that delegation for the two hearings in (a) and (b) which need to be concluded. It is considered that the appropriate method to resolve this issue other than by reconvening the hearings, is to appoint Councillor Wells and Mr O'Brien in respect of the Fendalton Mall hearing and Councillor Buist in respect of the Cashmere Club hearing as Commissioners by resolution of the Council.

This course of action would need to be agreed by the applicants and submitters for the hearings to continue on this basis. This should then avoid the possibility that if a party was unhappy at the Council's decision, they would initiate judicial review proceedings against the Council because of this change of process partway through the hearing. If any party to either resource consent hearing did not agree to this change of process, then the Council would need to recommence that hearing.

As the R A Hammersley matter is a consent order the same need to obtain the consent of the submitters is not essential as the submitters will have to sign the consent order.

**Deputy Chairman's
Recommendation:**

1. That Councillor David Buist be appointed pursuant to section 34(3) of the Resource Management Act 1991 as a Commissioner to conclude the hearing and make a decision in respect of a resource consent application by the Cashmere Club Incorporated to use an accessway off Colombo Street.
2. That Councillor Wells and Mr Aaron O'Brien be appointed, pursuant to section 34(3) of the Resource Management Act 1991, as Commissioners to conclude the hearing and make a decision in respect of resource consent application (RMA 20001927) by Fendalton Mall Limited.

26. 7. 2001

- 2 -

1 Cont'd

3. That Councillor Buist and Ms Wilkie be appointed, pursuant to section 34(3) of the Resource Management Act 1991, as Commissioners to sign any consent orders on behalf of the Council in respect of the resource consent application (RC 993166) by R A Hammersley Limited.
4. That resolutions 1 and 2 above be subject to the consent of all relevant parties in respect of each application to the Commissioners concluding the hearing and making the decision.

CONSIDERED THIS 26TH DAY OF JULY 2001

MAYOR