
ENVIRONMENT/
RESOURCE
MANAGEMENT

DECEMBER 2007

NEWS FROM THE ENVIRONMENT AND RM
DECISION-MAKERS



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Commissioners in majority again

Environment Commissioners are in the majority, and an Environment Court Judge in the minority, in a second decision this year. Commissioners Howie and Edmonds were in the majority, rather than Environment Court Judge Thompson in the September decision *Save the Point Inc and Chris Webster v Wellington City Council and the Wellington Regional Council* over a proposed Marine Education Centre at Te Raekaihau Point on Wellington's South Coast. While Judge Thompson found in favour of the proposal, Commissioners Howie and Edmonds ruled that consent not be granted as the development "would compromise the area's open space values and result in significant adverse effects on the landscape". The matter is by no means settled, with the Wellington Marine Conservation Trust and Wellington City Council lodging an appeal at the High Court earlier this month. Questions have been raised about the role of Commissioners in the court process, however, there are no proposals to change the majority rules decision-making basis in the Environment Court. The appeal is due to be heard in May 2008. Earlier this year in the decision *Lobb v Auckland City Council*, the practice of Commissioners overruling Environment

Court judges appeared to be unprecedented. However, we understand that a judge was in the minority in a 1995 Board of Inquiry decision involving the Stratford power station (*Report of the Board of Inquiry on Air Discharge Permit for the Taranaki Combined Cycle Power Station*).

Replacement of Auckland Regional Growth Forum

Replacing the Auckland Regional Growth Forum (ARGF) with a new collaborative political forum, the Regional Sustainable Development Forum (RSDF) has been promoted by the Auckland Regional Council as an important step in strengthening Auckland's regional governance. The RSDF was introduced in a wider regional governance proposal for Auckland in 2006, with the key recommendation being a new Greater Auckland Council. The proposed One Plan's objectives include achieving a common vision for the future; an integrated and prioritised set of strategies for regionally significant issues; greater alignment of local and central government strategies and funding; improved quality and timeliness of decision-making, as well as greater certainty around implementing decisions. The RSDF's delegated powers

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include responsibility to develop a One Plan for the Auckland region, then recommended to the Auckland Regional Council for adoption and to provide for ongoing stewardship of the Auckland Sustainability Framework.

More regional control

The Public Transport Management Bill, introduced to Parliament in October, is intended to enable regional councils to provide better public transport services, while retaining the ability of operators to register services on a commercial basis. The Bill aims to help regions get the best value for money in achieving an integrated, safe, responsive, and sustainable public transport system, while enabling fair competition and an efficient market for public transport services. Under current law, regional councils have limited control over public transport services that are not contracted by them and can only negotiate on standards for services they contract with providers, not commercial transport services. Other than the ability to refuse registration on limited grounds, regional councils now have no control over the nature and quality of the commercial services provided. In contrast, the Bill will empower regional councils to set standards that all commercial services will have to meet over time, including complying with better environmental practices and providing integrated ticketing between transport services. The new standards will be set out in the Regional Public Transport Plan which will give the Auckland Regional Transport Authority stronger controls over private operators. This increased power will enable regional councils to ensure that commercial public transport services are meeting the needs of the community. However, transport operators such as NZ Bus (formerly Stagecoach) believe the new Bill goes too far in giving councils the right to control

services that do not receive regional and Government subsidies. Although the legislation does not extend to giving regional councils the ability to introduce a fully contracted system - in which they would receive all passenger fares before paying fees to operators – the Government has said that councils would be able to impose controls on anything from the frequency of trips to the colour of buses and ferries. Concern has also been raised by the Auckland Regional Council at factors including the extensive consultations required on new transport plans and an 18-month delay before they are operative. The ARC supports the power to adopt a fully contracted public transport system, not provided in the Bill. With the Bill not currently satisfying regional councils or the transport operators, the report of the select committee after considering submissions will be awaited with interest.

Push for Commissioners to preside

Auckland City Council has moved to have only Commissioners preside over resource consent hearings, an initiative of the new Citizens & Ratepayers councillor majority. The Far North District Council has also adopted the practice, with councillors voting last month to scrap its previous committee system and use Commissioners. This is an interesting development given the common practice of councillors presiding over hearings, unless there was a clear conflict of interest and it was necessary to appoint independent Commissioners. We will watch with interest to see if the new hearing process provides more transparent, time and cost-effective decision-making, and whether it reduces the likelihood of appeal.