

2001 – 2002 Environment Court Report

The Environment Court is a special court of record constituted under the Resource Management Act 1991. Comprising Environment Judges and Environment Commissioners, the major business of the Court is hearing and determining appeals from decisions on resource consent applications and references about the content of regional and district planning instruments under the Resource Management Act 1991. For those cases, a quorum for the Court is one Environment Judge and one Environment Commissioner, but the Court often sits with two Environment Commissioners.

The Court also makes declarations on the interpretation and application of resource management law, makes enforcement orders (similar to injunctions), and decides appeals from local authority abatement notices under the Resource Management Act. Those cases can be determined by an Environment Judge sitting alone. Where the parties agree to mediation, Environment Commissioners conduct mediation and alternative dispute resolution processes. With the consent of the parties, Environment Commissioners may sit alone to hear and decide cases specifically assigned to them by the Principal Environment Judge.

Environment Judges and alternate Environment Judges also sit regularly in the District Court to hear prosecutions for offences under the Resource Management Act.

Workload And Resources

In 2002, the Court was able to make positive headway in dealing with its workload and continuing the reduction in the number of outstanding cases in keeping with the trend initiated in 2001 with the aid of additional judicial and Commissioner support. The caseload still remains at a higher level than pre-2000, but with continuing provision of appropriate resources, the trend in reducing the number of outstanding cases is expected to continue.

Environment Commissioners remain actively involved in mediating environmental and planning disputes, with the number of cases mediated, and their complexity, continuing to increase. On the other hand, significant numbers of cases require public hearings and decisions by the Court.

Cases of general interest determined by the Court included:

References concerning the Otago Regional Water Plan; exotic forestry control issues Hurunui District Proposed Plan; new prison proposal near Ngawha, including issues over site suitability due to presence of geothermal activity and Maori cultural and spiritual values; second part of inquiry into Tasman Aquaculture case; consideration of draft Motueka Water Conservation Order for the Motueka River; coastal hazard issues in reference to Papamoa Beach at Tauranga; a significant apartment complex development within the coastal environment at Ohope; extension of the motorway corridor of State Highway 20 at Auckland, with issue as to effect upon Mt Roskill volcanic cone; and a new town proposed by private plan change for 5000 people on rurally-zoned land north of Christchurch.

In various cases the stakes were high, both in terms of environmental effect issues and social or economic implications. The Court continued to attain a high quality of professionalism in dealing with a heavy workload.

Evidence Recording

For many cases, the only written record of cross-examination is hand-written notes taken by Judges. For those cases, while proceedings are taped, the tapes are not transcribed. Consequently, hearings proceed according to the speed at which a Judge can write.

In some lengthy hearings (over one week in duration), court reporters are sometimes provided. However, again, the proceedings can only proceed as quickly as the court reporter can make the record.

As observed in the report for 2001, the Court, and those appearing before the Court, continue to be frustrated by lack of access to digital recording technology which, if available, would significantly reduce hearing time and increase efficiency. Because the Court often sits away from courtrooms, recording technology that can work both at courtrooms and at other locations is needed.

Registry Support

The Department for Courts is responsible for providing support to the Court. It is the Department, rather than the Judges, which makes the decisions about the administrative support provided.

In 2001, after conferring with the Judges, the Department for Courts accepted the need for improvements in support provided to the Court. The Department initiated a change project and appointed a Change Manager. That project has resulted in enhanced Court support - a factor that has contributed positively to the Court's effectiveness and ability in reducing the caseload. Nevertheless, there is still a way to go before the introduced changes are fully embedded, with an optimum level of derived efficiency in mind.

Mediation Suite

Purpose-built mediation facilities constructed for the Court's use within the Auckland District Court continue to be well-used and to provide appropriate accommodation for the conduct of mediations.

Cessations And Appointments

The only change to the Court's membership was the retirement of Commissioner Frank Easdale after 10 years of valuable service, both in Court sittings and mediation.