

Report of the

REGISTRAR OF THE ENVIRONMENT COURT

For the 12 months
ended 30 June 2004

CONTENTS

	Page
INTRODUCTION	3
1. PROFILE OF THE ENVIRONMENT COURT	4
1.1 Judges and Commissioners	4
1.2 Senior Administrative Staff	5
1.3 Obituary	5
2. ADMINISTRATION OF THE ENVIRONMENT COURT	6
2.1 The Court's Jurisdiction	6
2.2 Legislative Change	7
2.3 Review of Civil Fees	7
3. WORKLOAD OF THE ENVIRONMENT COURT	8
4. RESOURCES	8
4.1 Initiatives/Special Projects	9
4.2 Court Expenditure and Revenue	11

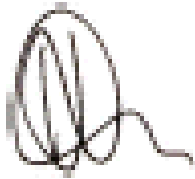
INTRODUCTION

The Honourable the Minister for Courts

Minister,

I have the honour to forward in terms of section 264(1) of the Resource Management Act 1991, my report on the administration, workload and resources of the Environment Court for the twelve months ended 30 June 2004.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'H. Johnson', with a long, thin flourish extending to the right.

Harry Johnson, Acting Registrar, Environment Court

1. PROFILE OF THE ENVIRONMENT COURT

1.1 Judges and Commissioners

Principal Environment Judge

RJ Bollard

Residence

Auckland

Environment Judges

JR Jackson
SE Kenderdine
LJ Newhook
JA Smith
CJ Thompson
RG Whiting

Christchurch
Wellington
Auckland
Christchurch
Wellington
Auckland

Alternate Environment Judges

JES Allin
FWM McElrea
DFG Sheppard

Wellington
Auckland
Auckland

Environment Commissioners

PA Catchpole
RM Dunlop
Dr AH Hackett
WR Howie
IGC Kerr
CE Manning
HA McConachy
IG McIntyre
Dr DH Menzies
JR Mills
MP Oliver
K Prime
JD Rowan
SA Watson

(Appointed March 2004)

New Plymouth
Auckland
Mt Maunganui
Wellington
Christchurch
Christchurch
Auckland
Auckland
Christchurch
Wellington
Auckland
Bay of Islands
Wellington
Christchurch

Deputy Environment Commissioners

OM Borlase
 Dr BR Gollop
 R Grigg

Dunedin
 Whangarei
 Akaroa

1.2 Senior Administrative Staff*Acting Registrar*

John Grant

Wellington

Deputy Registrars

Harry Johnson
 Ian Russell
 Brendan Fitzgerald

Auckland
 Wellington
 Christchurch

Judicial Resources Manager

Tracey Chapman

Wellington

1.3 Obituary

It is with sadness that I record here the death of two sitting members of the Court.

Alternate Judge William John Treadwell QSO, died peacefully after a brief illness, on 13 August 2003. Judge Treadwell was appointed as Chairman of the Special Town and Country Planning Appeal Board in 1972, and served on the Appeal Board and then the Planning Tribunal and finally the Environment Court until 1996, at which point he became an alternate Judge of the Court until his death. In 1997, he was awarded the QSO for his services to environmental law.

A memorial sitting was held in Wellington on 23 September 2003 in recognition of his considerable contribution to this country's body of planning law and practice over three decades.

More recently, Environment Commissioner Robert Priest died in Hamilton on 21 January 2004, again after a brief illness.

Commissioner Priest had been appointed as a Commissioner on 3 March 2003 after many years with the Waikato Regional Council, becoming its Deputy Chief Executive.

2 ADMINISTRATION OF THE ENVIRONMENT COURT

2.1 The Court's Jurisdiction

The Environment Court is established by section 247 of the Resource Management Act 1991 (the Act), as a Court of Record. It is a specialist Court that has jurisdiction over environmental and resource management matters. It can be characterised as follows:

- a Judge usually presides at sittings to hear and determine proceedings;
- it is required by law to act judicially;
- it hears contesting parties to the proceedings before it and gives a determination which is binding upon them.

The Court's functions are to determine, among other things, appeals in respect of resource consents, designations and abatement notices, plan appeals¹ in respect of the content of regional and district planning instruments, applications for enforcement orders, and inquiries in respect of water conservation orders. The Court may also make declarations about the application and interpretation of resource management law. Judges of this Court also hold warrants as District Court Judges, and from time to time sit in the District Court to hear prosecutions laid summarily under the Resource Management Act.

For matters heard in the Environment Court, a quorum for the Court is one Environment Judge and one Commissioner, but the Court is most often constituted with one Environment Judge and two Commissioners. The Act also provides for Judge or Commissioner alone sittings. As required under the Act, hearings are conducted at a place as near to the locality of the subject matter to which the proceedings relate, as the Court considers convenient.

¹ Formerly known as "references" but amended by the Resource Management Amendment Act 2003.

During the year, the Environment Court Unit of the Special Jurisdictions Group of the Ministry has maintained the Court's registries in Wellington, Auckland and Christchurch. The Unit's staff supported by the Special Jurisdiction's National Office management group, provided administrative, case management, hearing management, word processing, records services and legal research support to the Court.

2.2 Legislative Change

The passing of new regulations in August 2003 has led to the establishment of Court Registries in Auckland and Christchurch, to complement that in Wellington. This has considerably enhanced the direct level of service that is delivered to users of the Court and to its Judiciary.

Additional changes proposed to Part XI of the Act are expected to engender enhanced efficiencies as a range of quasi-judicial powers are conferred upon the Registrar and Deputy Registrars of the Court.

2.3 Review of Civil Fees

On 1 June 2004, the Minister for Courts announced proposed changes to the fees payable for filing proceedings with Courts and some Tribunals, including the Environment Court.

For the first time, new hearing fees are proposed in the Environment Court. They are proposed to be \$440 for the first day of any hearing and \$220 per half day after that.

Filing fees are proposed to increase from \$55 to \$245 (\$185 in the case of plan appeals in recognition of their greater public interest). Any person joining proceedings before the Court will also pay this fee.

The new fees are intended to ensure that users contribute to the cost of operating the Court in a proportion appropriate to the private benefits involved in cases.

These fees will not take effect however, until the Resource Management Act is amended to allow for the Registrar to waive fees. This may occur during 2005.

It is anticipated that the Registrar would consider exercising his or her discretion to waive the payment of fees, only where the applicant is genuinely unable to pay, or the proceedings involve issues of significant interest to the public that would not proceed, unless a fee waiver was granted.

3. WORKLOAD OF THE ENVIRONMENT COURT

Although not obvious in the figures recorded below, the downward trend in the Court's caseload has continued. At the end of the 2001/02 year there were 2669 cases on hand, and at the end of 2002/03, 1841 cases were recorded as on hand. As a decision was taken to change the count of cases, this figure should be in the order of 1950 cases on hand as at the end of 2002/03.

During the 2003/04 year 1089 new cases were lodged with the Court, 1400 were resolved, leaving an outstanding caseload of 1846.

	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
New Matters	1055	1840	1224	1373	2263	1270	1395	1355	1069	1089
Disposals	756	1080	1198	1184	1380	1195	1295	1727	1711	1400
Outstanding Matters	850	1670	1840	1999	2869	2940	3040	2523	1841	1846

4. RESOURCES

4.1 Initiatives

The new initiatives funding for the Court, being delivered over a period of four years, has contributed significantly (and is continuing to do so) to a reduction in the Court's caseload, and in the enhancement of the overall level of service being delivered to Court users and its Judiciary.

Specific programmes designed to increase the efficiency of the Court's Registries have included:

- Information Technology

Work is ongoing on the design and implementation of a new database, which is modelled on that operated in the District and Higher Courts and known as CMS (Case Management System). The new database will create an improved capability to report and manage the Court's caseload (including rostering and scheduling of judicial resources). An interim Database is in place which has enabled the time taken to access and manage information in the Auckland and Christchurch Registries to be reduced dramatically.

- Caseflow Management

At the end of April 2004, the Principal Environment Judge announced the adoption by the Court of a new multi-track case management system for the management of its workload. This approach is expected to lend added certainty and direction to case management and has been the subject of wide consultation with key stakeholders.

The stated objectives of this approach are to:

- ensure the just treatment of all litigants;
- promote the prompt and efficient disposal of cases;
- improve the quality of the litigation process;
- maintain public confidence in the Court;
- ensure efficient use of available judicial, legal and administrative resources;
- achieve the purposes of the Resource Management Act 1991.

There are three tracks:

Standard - Most resource consent appeals, non-urgent declarations and miscellaneous applications.

Complex - Most plan appeals, complicated resource consent appeals, priority applications, including enforcement order applications.

Parties' On Hold - Proceedings where the parties are negotiating or mediating, or where a plan change or variation is promoted by a local authority.

The standard track will include cases that do not require an urgent sitting or considerable judicial management. Most resource consent appeals will be assigned to this track. The expectation is that a hearing date will be set within six months of the proceedings commencing, unless they are transferred to one of the other management tracks.

The complex track (including priority or urgent matters) will concern more involved proceedings such as plan appeals and appeals concerning a major development proposal. These proceedings will receive close judicial attention, with management timetables tailored to match the specific needs of the case(s) concerned.

Where parties by consensus require that a hearing be deferred for a period, they will have their case(s) placed in the "Parties' On Hold" track. Typically, parties wishing to engage in extended consultation and negotiations will have their cases placed in this track, where case management is effectively suspended unless the parties call for

its resumption. The Court will, however, exercise an overview and the parties will be required periodically to inform it as to progress towards resolution of the proceedings.

The track system will also provide for greater transparency in terms of the reporting of the Court's workload and will give a more accurate picture of the current caseload and where the Court needs to apply greater resources.

- Alternate Dispute Resolution

There is anecdotal evidence that mediation in the Environment Court, delivered by the Court's Commissioners at no cost to the participants, is increasingly viewed as a viable alternative to a full hearing by many parties.

- Digital Evidence Recording and Transcription

A digital evidence recording and transcription system for the Court has been successfully trialled and implemented. Oral evidence given before the Court is now digitally captured and transcribed for the Court and parties within hours of being given and with great accuracy. The use of this technology has led to a reduction in the time hearings take, thus reducing overall compliance costs for parties. The availability of annotated transcripts has assisted members of the Court in the production of judgments and this is likely to reduce the time taken for them to be produced.

4.2. Court Expenditure and Revenue

Expenditure and revenue of the Court during the 2003/2004 financial year and in the previous year was:

Expenditure	2003/2004	2002/2003
	\$	\$
Judges' salaries and allowances	1,504,800	1,586,933
Commissioners' fees and salaries	1,379,497	1,110,762
Staff salaries and wages	1,647,595	1,761,791
Judges' and Commissioners' travel costs	721,072	612,001
Digital Audio Recording and Transcription ²	943,602	0
Staff travel costs	92,710	115,887
Staff and Commissioner training	128,373	118,726
Hireage of venues for sittings and mediations	58,157	46,117
Telephone, postage and courier costs	119,259	95,231
Stores and stationery	82,825	106,837
Textbooks and periodicals	45,596	43,053
Maintenance of buildings, furniture and equipment	152,883	163,146
Utilities (power and rates)	81,901	86,191
Miscellaneous overheads	3,498	6,611
	6,961,768	5,853,286
Revenue		
	\$	\$
Sale of copies of Court decisions	16,994	7,932
Appeal and application lodgement fees	52,178	53,777
	69,172	61,709

² Oct 2003 New Initiatives funding for digital evidence recording and transcription.