

Report to the Rural Services and Wairarapa Committee
From Steve Blakemore, Manager Planning and Resources

Objection to Consent Processing Charges

1. Purpose

To obtain a Committee decision on the objection by the Castlepoint East Coast Recreational Jetty Trust to the costs charged for processing their recent consent application.

2. Background

- 2.1 At the meeting of 6 July 1999, this matter was discussed and laid on the table for further consideration at the next meeting of the Committee.
- 2.2 The report provided to that meeting is attached as Report 99.377 (Attachment 1.)
- 2.3 The objection relates to additional charges of \$11,141.89 plus GST which is all costs above the initial application deposit of \$3000.

3. Additional Information

(All costs exclude GST)

- 3.1 This was a joint hearing with the Masterton District Council, with the Regional Council undertaking joint administration as the lead agency. Masterton District also approved use of an independent hearings commissioner in recognition of their close association and proposed part funding of the proposal,

Part of the hearing costs can therefore be attributed to the District Council. A careful allocation of charges has been made as follows:

Total processing and hearing charges: 14,141

Masterton District Council Allocation

<i>Staff time</i>	2550	
<i>Commissioner</i>	2097	
<i>Disbursements</i>	9	4,656

Wellington Regional Council

<i>Staff time</i>	9030	
<i>Councillor</i>	185	
<i>Disbursements</i>	270	9,485

(3000 deposit has been paid to WRC)

3.2 Costs have recently become available for a similar notified hearing (not joint) involving activities in the coastal marine area. For the Hutt River mouth dredging application, two external commissioners were used. With substitution of the Castlepoint Commissioners costs, the cost of this hearing was \$ 18,933.

3.3 The Trust have supplied an unaudited set of accounts. (Attachment 2.) This show that at 30 June 1999 assets were limited to cash of \$1280.

(1) Income has come from grants and interest:

<i>Masterton District Council</i>	6042	
<i>Masterton Licensing</i>		
<i>Charitable Trust</i>	8000	
<i>Tararua Foundation</i>	2922	
<i>Interest</i>	42	17,006

(2) Accounts currently payable by the Trust are:

<i>GST</i>	97	
<i>Masterton District Council</i>	4229	
<i>Wellington Regional Council</i>	11142	
<i>Beca Carter</i>	4950	20,418

The accounts did not state if a further account was anticipated from the Trusts consultants - Beca Carter.

3.4 It is noted that the Masterton District Council has already charged the Trust over \$4000 for costs incurred by them with the processing. At the last Committee meeting Mayor Francis indicated that the District Council was considering remitting this charge.

3.5 Reference was made during the Committee's discussion of possible precedents in the Wellington office related to previous cost objections.

A copy of the Sacred Heart College objection decision has been obtained and for two others around that period.

(1) The 1995 Sacred Heart College cost objection related to Council engaging an independent consultant without the applicants agreement. In this case a 35% reduction in total costs was made, equivalent to a 50% reduction in

the consultants cost. The total costs were reduced from \$9517 to \$6127.

- (2) The 1996 Waikanae Golf Club objection involved additional costs of \$157 which was dismissed.
- (3) The 1996 DOSLI objection involved a hearing with additional charges of \$2188. The objection was not upheld.

4. Discussion

- 4.1 The Trust's objection centres on the decline of their consent and their consequent lack of funds to meet consent application costs. The presentation by the Chairman and Mayor Francis principally focused on seeking a grant from Council towards the remaining costs.
- 4.2 No objection was raised that any of the charges were unfair or unreasonable, or that the process was excessive or flawed in some way.
- 4.3 There was a 'surprise' element to the final costs and it is accepted by staff that this could have been better conveyed to the applicant. However, at the time that the make up of the Hearings Committee was being decided, the applicant's consultant was informed:
 - that use of a commissioner would significantly add to costs
 - that the hearing may go to for two days
 - that it was a major hearing and the lack of information was affecting the process
 - that costs were getting high and he should convey this to the Trust

In the application, the consultant was given as the address for service. This was followed throughout the process.

- 4.4 This is an unusual case as it involves costs related to a declined consent. Its decline severely limits the applicants ability to raise money.

Matters of equity need to be considered. Just as the applicant was a community organisation, so were some of the objectors. Preparing and presenting their submissions imposed an additional cost on their organisations. They have objected and been successful in their objection, but there is no opportunity for an award of costs or a grant to be made.

- 4.5 Regional Councils are prevented from making community grants. On the other hand City and District Councils are permitted to make such grants.

The proposed jetty had the support and encouragement of Masterton District Council as a millenium project with \$150, 000 allocated

towards the project in their draft annual plan for 1999/00, although this was subsequently deleted. At the last Committee meeting, Mayor Francis referred to his Council's ability to make grants and acknowledged that the Commissioner and part of the costs of the joint hearing were in reality District Council costs.

4.6 An appropriate way in dealing with this matter may be as follows:

- (1) *The Committee resolve to remit \$2500 in recognition that more specific and timely advice on costs could have been provided during the process.*
- (2) *The balance of the additional charges be upheld.*
- (3) *That the Committee discuss with Masterton District Council payment of their \$4656 share of the joint hearing costs together with opportunities for eliminating the balance of the additional charges payable by the Trust.*

5. Communications

No specific publicity is proposed on this item.

6. Recommendation

That the Committee:

- (i) *Resolve to remit \$2500 (plus GST) from the additional charges made in relation to Consent WAR 9800184, and uphold the balance of the additional charges.*
- (ii) *Discuss settlement of the balance of the charges with Masterton District Council, recognising their share of costs attributable through the joint hearing, and their public financial commitment and encouragement given to the project.*

Report prepared by:

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