



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

HEARING BY COMMISSIONERS

I hereby give notice that a Hearing by Commissioners will be held on:-

DATE: Tuesday, 23 September 2008 **TIME:** 9.30 am

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson,
Waitakere

to consider an Objection Under Section 357B of the Resource Management Act 1991 by Cassells and to take any necessary action connected therewith.

Sharon Simiona .

17 September 2008

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Commissioners:	Cr	VS	Neeson, JP (Chairman)
	Cr	LA	Cooper
	Mr	WW	Flaunty, QSM, JP

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A HEARING BY COMMISSIONERS TO BE HELD AT WAITAKERE
CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE,
ON TUESDAY, 23 SEPTEMBER 2008 COMMENCING AT 9.30 AM**

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CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON, WAITAKERE,
ON TUESDAY, 23 SEPTEMBER 2008 COMMENCING AT 9.30 AM**

**1 OBJECTION UNDER SECTION 357B OF THE RESOURCE MANAGEMENT ACT 1991
BY CASSELLS IN RESPECT OF FEES ASSOCIATED WITH A RESOURCE CONSENT
APPLICATION AT 1012 SCENIC DRIVE (RMA 2006-958)**

WAITAKERE WARD

N.B. This report sets out the advice of staff to the Hearings Commissioners in respect of a section 357B objection. It is not the decision of Council. The decision will be made after consideration of the objection by the Hearings Commissioners.

INTRODUCTION

The objector lodged an application for resource consent to operate a wedding and function venue (a non-residential activity). The proposal required consent for traffic generation of more than 20 vehicles per day and a driveway serving a non-residential activity. Retrospective consent was also sought for the construction of a building (marquee) on a sensitive ridgeline and also the completion of alterations to a building on a sensitive ridgeline (changes to the roof line to accommodate acoustic attenuation). Existing impermeable surfaces of 43.5% also required retrospective consent.

The application was received by the Council on or after 21 June 2006. The application was assessed by Council officers, a consultant planner and external specialists. A panel of commissioners heard the notified application on 14 February 2008, and subsequently consent was granted.

Council received the objection to the fees on Monday, 21 April 2008.

STATUTORY REQUIREMENTS

A15

The relevant provisions of the Resource Management Act 1991 are contained in section 357B (Right of objection in relation to imposition of additional charges or recovery of costs). A copy of this section of the Act is attached at page A15 for the information of the Commissioners. This section is explained below.

Section 357B allows the applicant to lodge an objection against the fees imposed by the Council under section 36(3) for the processing of a resource consent application.

Objections under section 357B are generally considered and determined by Council officers acting under delegated authority. However, the applicant indicated (in the letter dated 14 June 2008) that the matter be referred to the Hearing Commissioners for a determination.

Section 357D provides that after considering an objection, the consent authority may dismiss the objection, or uphold it either partly or wholly. If the applicant who lodged the objection is dissatisfied with the consent authority's decision, then they have the right of appeal to the Environment Court.

BACKGROUND

Council received an objection under section 357B to fees on 21 April 2008. The objection relates to fees amounting to \$14,241.69.

A2-A34 Council officers acting under delegated authority considered the objection, and decided to accept it in part. This acceptance in part provided a reduction of the fees by \$195.00. A full copy of the letter (dated 20 May 2008) and the relevant invoice documentation that provided the analysis of the fees and the acceptance in part of the objection is attached at pages A2 to A14 and pages A16 to A34.

A1-A15 Upon receipt of the letter accepting the objection in part, the objector met Council officers on Monday, 9 June 2008. The objector indicated that the contents of the letter were not accepted. Subsequently on 14 June 2008 the objector formally replied to the 20 May 2008 letter, and requested a hearing of the objection. As a result of the objector attending to matters overseas, the hearing of this objection was delayed. Copies of the original objection and the subsequent letter from the objector seeking a hearing of this matter are attached to this report at pages A1 to A15.

DISCUSSION

Council has a 100% cost recovery policy in relation to the processing of resource consents and is empowered by section 36 of the Resource Management Act 1991 to fix charges associated with the receiving, processing and granting of the consent (refer section 36(1)(b)).

The consideration and conclusions of the reporting officer in relation to this objection are comprehensively set out in the Council's letter dated 20 May 2008. To date the objector has not provided any further written information in response to the Council's letter dated 20 May 2008. Consequently the staff recommendations have not changed since that time.

A brief summary of the conclusions from the 20 May 2008 letter are as follows:

- The Council has a legal mandate to charge fees for processing resource consent applications;
- The objector seeks to reduce the overall fees for this resource consent from \$20,954.82 to \$6,713.13. This would amount to a reduction of \$14,241.69;
- The objections relate to the Consultant Acoustic Processing, the Committee Secretary Fee, the Planning Processing Fee and the Iwi Consultation Base Fee;
- The fees charged equate to costs incurred by the Council in processing the application (with the exception of a portion of the Committee Secretary fee, which should be reduced by \$195.00); and
- The costs incurred in the processing of this resource consent application are considered to be actual and reasonable.

CONCLUSION

A number of issues have been raised in the section 357B objection, and they require a decision. The matters that require a determination are identified as the fees associated with the following processing actions:

- Consultant Acoustic Processing;
- Committee Secretary Fees;
- Planner Processing Fee; and
- Iwi Consultation Fee.

The resource consent application was complex, and required skills in acoustic technology and planning. The fees associated with the utilisation of those external specialists are considered to be actual and reasonable, given the nature of the application. The Committee Secretary Fee has been reduced to reflect the actual costs, and the Iwi Consultation Fee is necessary to meet the Council's requirements under the Resource Management Act 1991.

For the reasons set out above, it is concluded that the objection should be upheld in part, to the extent indicated in this report. The decision made by the Council and recorded in its letter dated 20 May 2008 was valid and was accurate in its assessment of the fees associated with this resource consent application.

RECOMMENDATION

That pursuant to section 357B of the Resource Management Act 1991, subject to additional or contrary information being presented at the hearing, the objection made by Mr John Humphrey in relation to RMA 2006-958 **be accepted in part** to the extent that the invoice for this application be reduced by \$195.00.

Report prepared by: Eryn Shields Principal Planner: Resource Management.

