

16 September 2022

File Ref: OIAP-7-25177

Sean Marshall

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Tēnā koe Sean

Request for information 2022-119

I refer to your request for information dated 1 August 2022 which was received by Greater Wellington Regional Council (Greater Wellington) on 1 August 2022. You have requested the following:

“Costs associated with failed enforcement order application (281C Katherine Mansfield Drive)

My request includes (but is not limited to) information on:

- in-house costs attributable to this matter (such as costs of investigation);*
- any costs attributable to any other enforcement action taken before applying for an enforcement order (for example, letters of warning or letters of demand);*
- legal costs incurred for lawyers engaged by the Council;*
- costs for any experts or consultants engaged by the Council;*
- any costs or disbursements payable by the Council to the other parties to the proceeding or to the court;*
- any costs incurred after the Court's decision was issued (for example, resulting from advising the Council on the outcome and consequence of the decision);*
- any other costs incurred by the Council not noted above but reasonably attributable to this matter.*

My inquiry includes liability for costs accrued but not yet paid.

Can you please also provide a copy of any consideration (reports, resolutions, etc) which the council has given to the financial impact of this proceeding on the Council and how the council intends to finance its liability in relation to the proceeding.”

Greater Wellington's response follows:

Further to our letter dated 29 August 2022 seeking an extension of time to gather the information you requested, below is a table outlining information within the scope of your request that we have compiled as a result of a search of our records.

Context and Caveats

- The below costs are extracted from the Financial Systems based on time coding and invoice coding.
- The unsuccessful enforcement order application was part of a larger investigation which also resulted in criminal charges being laid.
- Costs within this investigation could be attributable to the enforcement order proceedings, criminal proceedings, or both.
- The criminal proceedings are still sub-judice, therefore further costs may be incurred within that process.
- There is an unknown cost element for officer time assessing compliance at the start of GWRC interaction with the respondents in the case. Prior to statutory action being considered and a full investigation being instigated, there are no specific coded costs.

In response to your first question:

Cost Element	Cost (\$)	Specific Commentary
Legal	203,964.64	Whilst specific invoices or actions may be attributable to one element of the bigger case without analysis of every invoice, and for the reasoning above it is not possible to separate out the costs specific to the enforcement order proceedings for the reasoning above.
External Consultants	34,135.30	
Settlement of Respondents Costs	482,402.07	Costs as per Decision [2022] NZEnvC 83 Dwyer J – 23 May 2022
Settlement of Court Costs	100,000.00	Costs as per Decision [2022] NZEnvC 107 Dwyer J – 21-June 2022
Officer Time Costing	103,747.00	Time coded by officers is based on an hourly rate of \$76.00. As for the above reasons it will also include time attributable to the enforcement

		order proceedings, criminal proceedings, or both.
Sundries	210.30	Other coded costs associated with investigation

In relation to your question on liability for costs accrued but not yet paid, we highlight the caveat above in relation to the criminal proceedings, being *“criminal proceedings are still sub-judice, therefore further costs may be incurred within that process”* that are as yet unknown. We confirm that other than as noted in the proviso, there are no costs associated with this failed enforcement order application that have been accrued but are not yet paid.

In relation to your request to provide a *“copy of any consideration (reports, resolutions, etc) which the council has given to the financial impact of this proceeding on the Council and how the council intends to finance its liability in relation to the proceeding”* we advise that the costs are currently being met from existing budgets. For this reason, there has been no consideration by Council of the financial impact of the proceeding or how it intends to finance its liability. Accordingly, Greater Wellington refuses the request for information under section 17(g) of LGOIMA on the basis that the information is not held by Greater Wellington.

If you have any concerns with the decision(s) referred to in this letter, you have the right to request an investigation and review by the Ombudsman under section 27(3) of the Local Government Official Information and Meetings Act 1987.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request will be published shortly on Greater Wellington’s website with your personal information removed.

Nāku iti noa, nā



Al Cross

Kaiwhakahaere Matua Taiao | General Manager, Environment Management