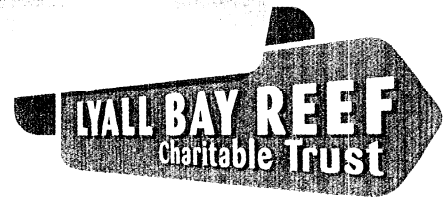


Wellington Regional Council
10 OCT 2003

FILE REF:	
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Doc. No.	
Referred to	Date/Int
Lucy Ryan	10/10/03
Alistair Cross	



Alistair Cross/Lucy Ryan
Greater Wellington Regional Council
PO Box 11646
Wellington

PO Box 10 246
Wellington
New Zealand

9 October 2003

Lyll Bay Reef Charitable Trust - Resource Consent Costs

Thank you for the interim invoice dated 30 September 2003 notifying an obligation to pay \$26,524.29.

Funding available to the Trust is limited to ~~\$19,691.31~~ assuming we collect the final outstanding pledges from our principal sponsors, Wellington City Council and Wellington International Airport Limited. Consequently as signalled to you, we do not have the funds to meet the costs invoiced to us already, nor funds to meet any additional costs once the remaining bills come in from the Commissioners.

We are a registered charity totally reliant on donations from sponsors and the public for funding and have no independent resources. When we sought commitments from sponsors at the start of this project, we obtained an estimate from the Regional Council (copy **enclosed**). That revised estimate prepared for us on 29 August 2001 of \$14,940 was the basis on which we went to the Wellington City Council and Wellington International Airport Limited for funding late in 2001. Funding was then committed in June/July 2002 by both parties based on that revised estimate.

On 7 July 2003 a further revised estimate was forwarded to Montgomery Watson **Harza** indicating a likely GST exclusive figure of ~~\$23,678.46~~ based on a hearing involving independent Commissioners.

We had always been led to believe that there would be no need for independent Commissioners but had **expected** the need for a notified hearing despite the Mount Manganui reef resource consent being granted on a non-notified basis.

We understand that the reason for their appointment was the inherent conflict of interest caused by the Harbour Master objecting to the consent. We note that the Harbour Master has now appealed the consent granted by the Commissioners, ironically despite having proposed changes to the Wellington Regional Navigation and Safety **Bylaws** to accommodate the very safety issues they are concerned about with the proximity of the **jetski** lane to the proposed reef. The proposed bylaw change follows through with the agreed plan to have the **jetski** lane moved 100 metres west, and reduced in size to 150 metres wide to specifically accommodate the reef and create a minimum safety barrier of 50 metres between the two zones.





Lyall Bay Reef Charitable Trust
PO Box 102246
Wellington

Whilst we understand the Harbour Master still must consult with community and usergroups before finalising that proposed bylaw change, we specifically negotiated that as a means of resolving the concerns that the Harbour Master had and are therefore puzzled as to the point or purpose of their appealing the resource consent granted given how rarely the jetski lane is used as a matter of fact.

We note that the Harbour Master was invited to consultation meetings that we held with usergroups and interested groups but did not attend the first of these. The Harbour Master attended the second of these meetings in February 2003 and raised for the first time their issues of concern regarding the jetski lane. The jetskiers raised no issues. After meetings with the Harbour Master, we understood that these issues were resolved with the agreement to propose an amendment to the bylaw and appropriate signage, as well as a buoy to demarcate the jetski lane. However at the resource consent hearing, the Harbour Master maintained the objection to the grant of consent despite the meeting that resolved outstanding issues as we understood it.

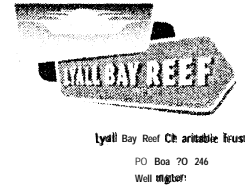
The Harbour Master indicated that they were concerned with the requirements of the Resource Management Act to ensure safety was maintained. We accepted that and the Commissioners require us to prepare a safety plan with the Regional Council i.e. the Harbour Master, and the Commissioners understood that there would be a proposal to amend the bylaw. We believe we have done all that we could realistically do to address the Harbour Master's concerns. However, the reality is that the consequence for us of the position that the Harbour Master is taking in the interests of maintaining safety or reducing the risk of future legal liability, has had the effect of extinguishing our entire funding and creating a shortfall which we have no means of overcoming.

In addition, we can expect to incur future costs if the Harbour Master persists right through to an appeal to the Environment Court whilst paradoxically at the same time pursuing a bylaw change to accommodate us.

We appreciate that the Harbour Master is acting on legal advice but we believe it is inappropriate for these additional costs to be borne by the Lyall Bay Reef Trust.

Given this background, we request that councillors review the costs and reduce them at the least to the level of funds that we have available i.e. \$19,691.31. We note that we have already paid an application fee of \$3,500 plus GST. This will leave us without any funding at all and we need to raise further funding to work through the appeal process. As a consequence we would prefer if the fees were reduced to \$17,000 including GST so that we retained a small amount to work through the appeal process.

We will recommence fund raising from the public to further assist with the appeal process, but this can be a very slow process. We have in fact already exhausted the pub charities with gaming machines as a funding source and they will not make available any further grants for the resource consent process. Similarly Wellington Community Trust and the Lotteries Board will not make funding available for the resource consent process. Wellington City Council only makes funding decisions as part of its annual plan process which would not be until July 2004 and in any event,



we have already exhausted that source and there would be considerable resistance to any more funding being provided to us for the resource consent process.

You will appreciate that the entire resource consent process so far has cost approximately \$200,000 and the Greater Wellington Regional Council fees are the very last cost that we must meet as part of obtaining the consent. That is the reason why our funding is exhausted.

In the event that Councillors do not approve a reduction of the fee to the level sought because of the position taken by the Harbour Master, we would also enquire as to whether our project would itself be eligible for a grant to the extent of the fee shortfall from one of the eligible funds of the Regional Council.

There is no doubt the proposed surf reef at Lyall Bay will be a recreational asset for the entire region. Lyall Bay is the best surfing beach between Wellington and Castle Cliff near Wanganui on the west coast. There are surf beaches of renown in the Wairarapa but access to these can be impeded and they are at remote locations. Surfers routinely drive up to 2 hours to pursue their sport throughout the Region. Consequently once the reef is in place, surfers and visitors will be drawn from throughout the Region to this unique recreational asset. Just as the Regional Council provided funding to the Kilbirnie Pool and more recently to the Stadium, there would appear to be a compelling case for some contribution to this project. If you have any particular funds that we might make application for, then please let us know and we will prepare the necessary paperwork.

Yours faithfully
Lyll Bay Reef Charitable Trust

Tony Lines
Chairman

Telephone: (04) 498 0805
email: tony.lines@kearsingtonswimming.com