

7. YALDHURST RURAL RESIDENTS' ASSOCIATION - REQUEST FOR FUNDING

General Manager responsible:	General Manager Community Services, DDI 941-8607
Officer responsible:	Community Support Manager
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PURPOSE OF REPORT

1. The purpose of this report is to present a funding request from the Yaldhurst Rural Residents' Association for \$15,000. The request is for funding from the Fendalton/Waimairi Discretionary Response Fund.
2. The request is for funding to cover legal expenditure to be incurred in relation to its appeal to the Environment Court. The appeal opposes the granting of a retrospective land use consent to Blackstone Quarries Limited.

EXECUTIVE SUMMARY

3. The Yaldhurst Rural Residents' Association ('the Association') is a registered Incorporated Society. The Association's Funding Application Form states that one of the objectives of the Association is to advocate for the rural residents of Yaldhurst on any issues they wish to pursue. They estimate that 50% of their residents reside in the Riccarton/Wigram ward and 50% in the Fendalton/Waimairi ward. Statistics provided by the Strategy and Planning Group (Christchurch City Council) show however that 77% of the Association's population (453) are located in the Fendalton/Waimairi Ward with only 23% (138) in Riccarton/Wigram Ward.
4. The Association advised that over the past three years they have been involved in six major applications by companies trying to establish industrial activities in the rural community. The appeal in this case relates to Blackstone Quarries Ltd.
5. In 2007 Blackstone Quarries Limited was issued with a Certificate of Compliance by the Christchurch City Council for 325 Old West Coast Road. The Certificate states that the crushing, screening and storage of recycled concrete and/or gravel not quarried on the site, for the use in the production of roading materials, is a permitted activity on the site.
6. In 2008 Blackstone Quarries Limited applied for a retrospective land use consent to operate a contracting depot from the same site. The Association made a submission on the land use consent application. As part of the submission the Association challenged the validity of the Council's decision to issue the earlier Certificate of Compliance.
7. The Commissioner ruled in favour of Blackstone Quarries Limited and granted the retrospective land use consent. The Association has since obtained its own legal opinion in respect to the Commissioner's decision, including the validity and relevance of the earlier Certificate of Compliance. On the basis of this opinion the Association has lodged an appeal in the Environment Court. They estimate that it will take six months to achieve an outcome in respect to the appeal.
8. The Association seeks financial assistance for their appeal to the Environment Court. The estimated total project cost is \$29,250. They requested \$15,000 from the Riccarton/Wigram Community Board to assist with these costs. The Riccarton/Wigram Community Services Committee recommended \$5,500 in September 2009 and this goes to the Riccarton/Wigram Community Board for ratification on Wednesday 7 October.
9. The Association also made an application for funding to the Environmental Legal Assistance Fund (administered by the Ministry for the Environment) for the entire project cost. The Ministry for the Environment declined their application concluding the case was of local interest only and did not meet the minimum threshold for environmental public interest (decision **attached**). The Panel noted that:
 - (a) The certificate of compliance to crush concrete on the site extends the life of mineral processing activities on the site but the certificate cannot be challenged at the environment court hearing.

- (b) The remaining issues in the case relating to the storage of trucks and earthmoving equipment might give rise to amenity effects on neighbouring properties but are not of sufficient moment to warrant a contribution from the Fund.
 - (c) The group and/or its members have some private interest in the outcome.
10. Staff also gave advice to the Association that they should make enquiries to Community Law, who do have some Resource Management expertise on board. The Association to date has not done this.
 11. A letter has been received from Mr Blakely, the Managing Director of Blackstone Quarries Limited. Mr Blakely questions why the Council, through a Community Board, would fund a community group (Yaldhurst Rural Residents' Association) to take action against itself. In the letter he also points out that (a) the work of Blackstone Quarries Limited is promoting sustainability as targeted by the Council and (b) previous Resource Management Act issues have led to the company laying off staff and he does not want to have to repeat this. Mr Blakely has been advised that the issues he raised will be considered when the Community Board makes its decision in respect to the funding request.
 12. Blackstone Quarries Limited is situated on the corner of Old West Coast Road and Miners Road, and lies in the Fendalton/Waimairi ward.

FINANCIAL IMPLICATIONS

13. The estimated total project cost is \$29,250, broken down into \$10,500 preparation costs, \$5,250 for the presentation at the hearing, \$1,500 legal instructions and disbursements and \$12,000 planners' preparation. The Association is seeking \$15,000 from the Board's Discretionary Response Fund.
14. All of the Association's funds at present are tagged for operational expenses and the payment of legal costs already incurred which are not part of the \$29,250 project cost with the exception of \$495 which they have budgeted for this project.
15. The Board's Discretionary Response Fund is one of the Council's grant funding schemes under the Strengthening Communities Strategy. In accordance with the Guide to the Discretionary Response Fund (**attached**), legal expenditure cannot be funded unless the particular issue is one of "precedence which has previously been supported by Community Boards". Therefore, unless there is any evidence that the Blackstone Quarries appeal is an issue that has previously been supported by the Fendalton/Waimairi Community Board, or any other Community Board, this application does not fall within the terms of the Discretionary Response Fund.
16. The Community Funding Manager has advised that this project is not eligible for Strengthening Communities funding.
17. However, as set out in a Memo, dated May 2008, from the Regulation and Democracy Services General Manager, Peter Mitchell, the Community Board '*does have absolute discretion over the allocation of its discretionary funding allocation of \$60,000 (subject to being consistent with any policies, or standards adopted by the Council)*'.
18. The Memo sets out suggested guidelines for Community Boards in respect to providing funding for resource management related issues, as follows:
 - "The Community Board supports groups that are involved in cases where:*
 - *The matter before the Council or Court is of an environmental public interest.*
 - *The focus of the case is the protection or enhancement of environmental quality.*
 - *The case effects the wider community or general public.*
 - *There is likely to be an imbalance between the level or quality of evidence and case management due to a lack of financial resources.*
 - *The group has shown why financial assistance is required.*

Other matters that could be considered by the Community Board include:

- *The commitment of the group and resources they can contribute.*
- *The group's ability to manage the case and previous experience in legal cases.*
- *The prospects of success for the case.*
- *Whether the case is unreasonable (frivolous) or undesirable.*
- *Whether the group has a financial interest in the outcome.*
- *Any overlap with other parties' cases.*
- *Whether or not the group is open to mediation."*

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

19. From page 186 of the LTCCP (Volume 1), under Community Funding, the Fendalton/Waimairi Community Board has discretionary funds for allocation during the 2009/10 financial year.

LEGAL CONSIDERATIONS

20. Advice has been sought from the Council's Legal Services Unit. The Legal Advice in summary is that the application for funding falls outside the Discretionary Response Fund criteria (unless the Community Board has previously supported the issue). However, the Community Board does have the discretion to accept the application for funding despite this. Regard should be had to the criteria discussed above when deciding whether to exercise this discretion.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

21. Under the Community Grants Activity Management Plan, funding for this project aligns under the Community Grants Funding Priorities and Outcomes, but does not align with the Discretionary Response Fund guidelines.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

22. As above.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

- 23.. Funding for this project aligns with the Council's Community Outcomes - A Safe City and A Healthy City as well as Healthy Environment and Liveable City strategic outcomes.

CONSULTATION FULFILMENT

24. Nil.

STAFF RECOMMENDATION

25. It is recommended that the Committee recommend that the Fendalton/Waimairi Community Board decline funding to the Yaldhurst Rural Residents' Association for legal expenditure related to the Environment Court appeal.