

CASE STUDY OF SOUTHLAND PRE-HEARING METHOD

BRIEF DESCRIPTION OF ALTERNATIVE DISPUTE RESOLUTION PROCESS:

- Pre-hearing meetings are held as a matter of course for most notified applications at Southland District Council. A specific case example of a successful pre-hearing meeting is the one held for the Tuatapere Hump Track proposal.

BACKGROUND:

Southland District Council initially notified the proposal for development of the 54 km long track in October 1999. The notification included a description:

A 54 km circuit track incorporating a part of the existing South Coast Track which traverses the historic Port Craig Viaducts. It involves the establishment of 22 km of new track, temporary construction facilities, board walks, vegetation clearance, helicopter landing areas, toilet facilities at Luncheon Rock, gravel extraction, soil disturbance, two accommodation complexes ...

The proposal was the result of 10 years of planning the route, the facilities, and how it would be funded. Submissions were received from among others, the Maori land owners who were particularly concerned over one section of the track which was to pass through their land. Negotiations resulted in the applicant placing the proposal on hold while a more detailed re-alignment was worked through. The Trust representatives continued to consult with submitters and a modified proposal for the track was re-notified in September 2000.

Consents were also needed from Environment Southland for gravel extraction, taking of water and discharge of effluent. These were of such a scale that none of these required notification.

PROCESS USED IN NARROWING THE ISSUES IN DISPUTE

After the second notification six parties still opposed the proposal, there were 15 submissions in support and a further five organisations/ persons commented.

A pre-hearing meeting was held in October 2000 which 15 parties attended together with 3 staff. The meeting was facilitated by a council planner who regularly conducts such meetings. She explained the purpose of the meeting and had participants agree to ground rules for behaviour at the start. The participants had a frank exchange of views. The pre-hearing meeting minutes record that the applicant intended to meet with one of the submitters to continue discussing outstanding issues.

OUTCOMES

- ✓ There were no formal withdrawals of submissions after the pre-hearing meeting.

- ✓ The pre-hearing provided the catalyst for further talks between the applicant and a submitter who had outstanding concerns
- ✓ The applicant put forward a variation to the proposal at the hearing which excluded particular land parcels, thereby satisfying some submitters; the applicant reached an agreement about lease arrangements with some others
- ✓ A better understanding of the issues resulted in just one of the submitters appearing to give evidence at the hearing.
- ✓ There were no appeals, the track was constructed and it opened in November 2001.

BENEFITS OF THE PRE-HEARING MEETING

- ✓ It reduced the number of outstanding issues before the hearing and consequently the time needed for the hearing itself
- ✓ Parties were clear on the purpose of the pre-hearing meeting, to understand the application better and work on mitigation of their concerns
- ✓ The submitters issues were more clearly identified for the reporting planner

LESSONS LEARNT

- ✓ Earlier consultation by the applicant may have averted the re-notification and delay
- ✓ Applicants need to set aside sufficient time to work through concerns with affected parties, particularly with Māori land owners who need to consult among themselves

CONTACT FOR FURTHER INFORMATION

The pre-hearing facilitator at Southland District Council is Jenny Green. She can be contacted at her email address: jenny.green@southlanddc.govt.nz.