

**IN THE ENVIRONMENT COURT
AT WELLINGTON**

**I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA**

Decision [2024] NZEnvC 058

IN THE MATTER of the direct referral of an application for resource consent for the construction of buildings and associated earthworks at 1-23 Tasman Street, Mount Cook, Wellington, under s 87G of the Resource Management Act 1991

BY ONE TASMAN DEVELOPMENT LIMITED PARTNERSHIP

(ENV-2023-WLG-000008)

Applicant

Court: Environment Judge L J Semple sitting alone under s 279(1) of the Act
Hearing: In chambers at Wellington
Last Case Event: 7 March 2024
Date of Decision: 26 March 2024
(On the papers)
Date of Issue: 26 March 2024

DECISION OF THE ENVIRONMENT COURT

A: An order for costs is made in favour of the Crown against One Tasman Development Limited Partnership in the sum of \$11,546.11 (including GST).

RE ONE TASMAN DEVELOPMENT LIMITED PARTNERSHIP - COSTS



REASONS

Introduction

[1] One Tasman Development Limited Partnership (One Tasman) applied to the Court under s 87G for direct referral of an application for resource consent for the development of a property at 1 – 23 Tasman Street. One Tasman had previously been granted a resource consent for a residential development together with a café and associated earthworks. The application before the Court sought to increase the height of two tower buildings in the development and to add an additional level of basement car parking. The Court granted the consent on 13 December 2023.¹ I reserved the issue of costs.

The issue of costs

[2] Section 285(3) of the Act provides that the Court may order any party to proceedings before it to pay to the Crown all or any part of the Court's costs and expenses. In respect of those applications directly referred to the Court under s 87G for determination, the Court must apply a presumption that such costs are to be ordered against the applicant. When deciding the quantum of any order, the Court must have regard to the fact that the proceedings are at first instance. The relevant provisions state:

285 Awarding costs

(1) The Environment Court may order any party to proceedings before it to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the court considers reasonable.

...

(3) The Environment Court may order any party to proceedings before it to pay to the Crown all or any part of the court's costs and expenses.

...

¹ *Re One Tasman Development Limited Partnership* [2023] NZEnvC 271.

- (5) In proceedings under section 87G, ... the Environment Court must, -
- (a) when deciding whether to make an order under subsection (1) or (3), -
 - (i) apply a presumption that costs under subsections (1) and (3) are not to be ordered against a person who is a party under section 274(1); and
 - (ii) apply a presumption that costs under subsection (3) are to be ordered against the applicant; and
 - (b) when deciding on the amount of any order it decides to make, have regard to the fact that the proceedings are at first instance.

[3] In accordance with those provisions, the Registrar on behalf of the Court and counsel for One Tasman have agreed that a sum of \$10,040.10 (exclusive of GST) is an appropriate amount to be paid in relation to the expenses incurred by the Court in this matter.

[4] Accordingly, the Registrar and One Tasman have requested that an order for costs be made in favour of the Crown against One Tasman of \$11,546.11 (inclusive of GST) and that a GST invoice from the Court be issued.

Costs

[5] I have not reviewed the basis of the agreement between the Registrar and One Tasman and therefore make the order as sought, by consent, on the basis that I am satisfied that the Registrar and counsel have acted properly in reaching an agreement on costs.

[6] The Court orders, by consent, that One Tasman Development Limited Partnership pay the Environment Court's costs in the sum of \$11,546.11 (inclusive of GST) to the Crown.



L J Semple
Environment Judge

