

**Mayor and Councillors
COUNCIL**

25 JANUARY 2018

Meeting Status: **Public**

Purpose of Report: For Decision

**RESOURCE MANAGEMENT ACT 1991: NEW APPLICATION
FEES**

PURPOSE OF REPORT

- 1 This report seeks Council's approval of additional resource management fees arising from the Resource Legislation Amendment Act 2017.

DELEGATION

- 2 Council has the authority to consider this matter pursuant to Section 36 of the Resource Management Act 1991 (RMA) and Section 76 of the Local Government Act 2002 (LGA).

BACKGROUND

- 3 The Resource Legislation Amendment Act 2017 (RLAA) obtained Royal Assent on 18 April 2017 and introduced two new types of applications – boundary activities and exemptions for activities with marginal or temporary effects. It also reduced timeframes for certain resource consents to ten working days. These amendments came into effect on 18 October 2017.
- 4 Council agreed to public consultation on the proposed fees for the new application types and for those applications with reduced timeframes at its meeting on 28 September 2017. These fees were:
 - a fixed two-hour charge (\$300.00 at the current hourly rate) for boundary activities;
 - a seven-and-a-half-hour deposit for fast-track consent applications (\$1,125.00 at the current hourly rate) with the ability to charge for additional processing time; and
 - a one-hour deposit and the ability to charge additional time for exemptions (\$150.00 deposit at the current hourly rate).
- 5 Boundary activity: The figure for processing a boundary activity was based on the fee charged for District Plan checks for building consent applications. Where building consents need to be assessed against the District Plan, applicants are charged for one hour of assessment time. Boundary activities differ slightly from this process as Council is required to keep records and issue written notices granting or declining an application thus necessitating the additional one-hour charge.

- 6 Fast-track applications: These require a report to be prepared by the processing officer as for a normal resource consent and to be peer reviewed before a decision is issued. The report assesses the environmental effects of a proposal against the requirements of the RMA. A decision letter is prepared and provided to the Applicant. Work is also undertaken by administration staff in preparing invoices and recording the consent into the internal database system that tracks and reports working days. Council is able to ask for further information if needed which can increase the time spent on an application. Applicants in this instance are receiving a priority service and staff have to prioritise processing fast-track applications above other applications to ensure statutory timeframes are met. Where the deadline is not met, the RMA requires a refund, the amount of which depends on the extent to which timeframes were exceeded. Applicants who do not wish to partake in the priority service can opt out and pay a lower deposit fee of \$900.00 (plus a \$300.00 engineering deposit if required) and have their application processed within the usual 20 working days as opposed to ten working days.
- 7 Marginal or temporary exemptions: These require staff to undertake an assessment of the information provided in accordance with the requirements of the RMA. To ensure adequate record keeping, a short report needs to be written and peer reviewed by two members of the Resource Consents team. Council must keep records of exemptions granted or declined, and this is done by entering details into an internal database system that is used for resource consents tracking and reporting. There is also staff time associated with generating the invoice for the associated fees. Council must document the reasons why an exemption has been granted or declined in a written notice as required by the RMA and provide this to the applicant.
- 8 Consultation Process: The opportunity to submit on the proposed resource management fees was well publicised and submissions opened on 2 October 2017 and closed on 2 November 2017 to meet the requirements of the special consultative procedure set out in Section 83 of the LGA. Two submissions were received. These submissions were received in time and are appended to this report with staff responses set out below.
- 9 One submitter indicated they did not wish to be heard; the other indicated that they possibly wished to be heard. At the time the submissions were received an acknowledgement letter was sent. This was followed by a letter on 8 December 2017 confirming the date of the hearing and asking for confirmation if they wished to speak or not. Phone conversations on 3 January 2018 with both submitters confirmed verbally that they did not wish to speak to their submissions.
- 10 Five boundary activity applications and three fast-track applications (land use controlled activities) have been processed since 18 October 2017. There have been no requests for an exemption.

CONSIDERATIONS

Submission one

- 11 Mr Keith Robertson does not support any of the proposed fees and believes that costs for these services should be covered by rates. Mr Robertson further comments that Council should strongly resist Government drives to introduce cost activities if they cannot be covered by rates. A “value for money” check

needs to be undertaken on the proposed fees and all other fees associated with the RMA and building activities.

- 12 Fees and Charges are determined by the Council in accordance with the Council's Revenue and Funding Policy. That policy requires that operating costs for resource consents and compliance are split between the public and private benefit (60%:40%). This policy was the basis for recommending the proposed fees that were publicly notified. Under the policy a portion of the cost is already funded from rates.
- 13 Resource consent staff use an electronic timesheet system that records the amount of time spent on each application. The average processing time for the five boundary activity applications received since 18 October 2017 was three hours. This is more time than the proposed fee covers; however, a number of applications have taken longer to process due to staff needing to assess both the Operative District Plan and the Proposed District Plan Decisions Version and learning the process for boundary activities.
- 14 There have only been three fast-track applications processed since 18 October 2017 and these have taken an average of six hours to process as they were straightforward applications. Three consents are not considered to be a good representative sample of the possible time spent processing land use controlled applications as they were for a relocated building and two home occupations. Both these activities are proposed to become permitted activities under the Proposed District Plan. The land use controlled activities under the Decisions Version of the Proposed District Plan include a wider range of activities than that of the Operative District Plan; therefore, the fee of \$1,125.00 is considered to be appropriate. The range of activities means that greater input from development engineers will also be required. Council has the ability to review this fee as part of the Long Term Plan process.
- 15 Council staff believe that the proposed fees are consistent with Council's funding policy and statutory requirements having regard to the public/private funding split for the activity.

Submission two

- 16 Ms Margaret Delbridge preferred option 1 of the new fees options proposed in the 28 September 2017 report to Council. This option was the preferred option by staff and involved setting two deposit fees (exemptions and fast-track consents) and one fixed-fee (boundary activities). Ms Delbridge does not agree with the figures that staff have proposed as she believes the work that will be undertaken has not been explained.
- 17 The process for determining the charge/deposit for applications has been outlined earlier in this report and is believed to be a fair representation of the time spent processing applications. Each year Council reviews the previous year's fee schedules. As part of this process, Council can look at the time spent on the new types of applications and fast-track consents, and determine if the fees should be increased or reduced.
- 18 It should also be noted that Section 36AAA(1) of the RMA sets out that the *sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates*. Section 36AAA(2) also sets out that:

A particular person or particular persons should be required to pay a charge only—

(a) to the extent that the benefit of the local authority's actions to which the charge relates is obtained by those persons as distinct from the community of the local authority as a whole;

- 19 These requirements, along with Council's internal funding policies, form the basis for Council's RMA administrative charges.

Consultation already undertaken

- 20 The proposed fees were released to the public for submissions on 2 October 2017. Submissions closed on 2 November 2017.

RECOMMENDATIONS

- 21 That Council notes the views of submitters attached as Appendix 1 of RS-18-419 Resource Management Act New Application Fees.
- 22 That Council agrees to adopt the fees proposed:
- Two-hour fixed fee for deemed permitted boundary activities;
 - Seven-and-a-half-hour deposit for fast-track consent applications with the ability to charge for additional processing time; and
 - One-hour deposit for marginal or temporary exemptions with the ability to charge for additional processing time.

Report prepared by	Approved for submission	Approved for submission
Marnie Rydon	Max Pedersen	Natasha Tod
Senior Resource Consents Planner	Group Manager Community Services	Group Manager Regulatory Services

ATTACHMENT

Appendix 1 Submissions received

Date received	Submission number

Fees for new applications under the Resource Management Act 1991 SUBMISSION

Refer to Summary of Proposal

Submissions Close 5pm, Thursday, 2nd November 2017

How to lodge your submission:

You can email, post or deliver your submission as follows:

Email: resource.consents@kapiticoast.govt.nz

Post: Kāpiti Coast District Council
Private Bag 60-601,
PARAPARAUMU 5254

Deliver: Paraparaumu Service Centre, 175 Rimu Road,
Waikanae Service Centre, Mahara Place
Ōtaki Service Centre, 81-83 Main Street

Or you can use our online portal – access here

Online: consult.kapiticoast.govt.nz click on Fees for new applications under the Resource Management Act 1991

If hand-writing, please write your contact details in clear BLOCK CAPITAL letters

Submitter details						
Is this an individual submission?		Yes				
If this submission is on behalf of an organisation, please state the name of the organisation:						
Organisation:	NA					
Title <i>(tick one)</i>	Mr	<input checked="" type="checkbox"/>	Mrs		Other (please specify)	
First Name:	Keith					
Last Name:	Robertson					
Address (*indicate your preference for response)						
*Address:	96 Arcus Road					
	Te Horo					
*Email:	Keith.robertson@windsor.co.nz					
Phone number:	06 3643357			Mobile:	021 509753	

Do you want to speak to the council about your submission at the consultation hearings?	Possibly	
<p><i>If you wish to speak to your submission please ensure you have provided contact details, we will contact you to arrange a time. At this stage Hearings will take place later in 2017 at a date yet to be determined.</i></p>		

Refer to the Summary of Proposal for further information

Background information is provided in the Summary of Proposal, which gives two options:

- Option 1: Marginal and Temporary Exemptions and Fast-track consents with deposit processing fees and Boundary Activities with a fixed processing fee.
- Option 2: Use the cost recovery method of invoicing at current hourly rates set in the resource management fee schedule.

Question 1: What is your preferred option?

Please indicate	Neither	
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Comments

Costs for these services should be covered in our rates. If not then KCDC needs to strongly resist Government drives to introduce these cost activities. Has anyone done a "value for money" check on all these fees? Based on my experience all KCDC fees on RMA and building activities need urgent review.

Question 2: Are you in agreement with the fixed fee for Boundary Activities being \$300.00?

Please indicate		No
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Comments

See above answer.

Question 3: Are you in agreement with the fee for Fast Track consents (land use Controlled activities) being a \$1,125.00 deposit which covers the first seven hours and a half of processing time and the ability to charge for additional time ?

Please indicate		No
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Comments

See above answer.

Question 4: Are you in agreement with the fee for Temporary or Marginal Exemptions being a \$150 deposit which covers the first hour of processing time and the ability to charge for additional time?

Please indicate		No
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Comments

See above answer

Need more room? You can send us extra pages if there is not enough space on this form to give all the feedback you want to. Please make sure your name and contact information is included.

Privacy Statement: Please note that all submissions (including names and contact details) will be made publicly available. A summary of submissions including the name of the submitter may also be made publicly available and posted on the Kāpiti Coast District Council website. Personal information will be used for administration relating to the subject matter of the submissions, including notifying submitters of subsequent steps and decisions. All information will be held by the Kāpiti Coast District Council, with submitters having the right to access and correct personal information.

Boundary 'deemed permitted' Activities

Where a rule is breached in relation to a boundary, such as a setback or height in relation to boundary, an Applicant can apply to Council for a written notice. The written approval from all owners of the affected boundary must be supplied along with the application form and plans detailing the encroachment. A boundary activity cannot be applied for when the encroachment is along a public boundary such as a road or reserve. Council does not have to undertake an effects assessment and if all the information is supplied (there is no ability to ask for further information), must issue a written notice deeming the activity to be permitted within 10 working days.

Council must keep records of applications and the written notice lapses within five years unless given effect to prior.

Temporary or Marginal Exemptions

Council has the discretion to determine if effects of a proposed activity are temporary or marginal and issue a written notice which exempts the requirement of a resource consent. There is no formal application process for public participation as Council determines what is temporary or marginal and there is no working day timeframe to assess temporary or marginal effects and make a determination. Sufficient information must be supplied for Council to be able to determine what the effects are and if they are temporary or marginal. Council must keep records of exemptions granted or declined. Written notices must be provided and lapse within five years if not given effect to within prior.

Fast-track Applications

Where a land use resource consent has been applied for in respect to a controlled activity, Council must process and issue a decision within 10 working days. Council has no discretion to decline controlled activity consents. There are currently 17 land use controlled activities in the Operative District Plan; this may change when decisions are released on the Proposed District Plan. The most common applications received for land use controlled activities are for home occupations and relocated buildings. Applicants in this instance are receiving a priority service, although they can opt out and pay a lower deposit fee if they wish.



Make Submission

Event Name	Fees for new applications under the Resource Management Act 1991
Submission ID	17RMA-1
Response Date	17/10/17 6:50 PM
Status	Submitted
Submission Type	Web
Version	0.1
Submitter details	

Is this an individual submission? ☐ Yes

Title (tick one)

☐ Mrs

Other (please specify) ☐ Ms

First Name and Last Name Margaret Delbridge

Address (*indicate your preference for response)

*Address

75 Seddon Street Waikanae

*Email

margaret@888property.net

Mobile number 0221937073

Hearings Information

If you wish to speak to your submission please ensure you have provided contact details, we will contact you to arrange a time. At this stage Hearings will take place later in 2017 at a date yet to be determined.

Do you want to speak to the council about your submission at the consultation hearings? ☐ No

Refer to the Summary of Proposal for further information

Background information provided on Summary of Proposal, which gives two options:

- **Option 1:** Marginal and Temporary Exemptions and Fast-track consents with deposit processing fees and Boundary Activities with a fixed processing fee.
- **Option 2:** Use the cost recovery method of invoicing at current hourly rates set in the resource management fee schedule.

Question 1

Please indicate by selecting either Option 1 or Option 2

What is your preferred option?

Option 1

Comments

Quite what work is involved in processing an exemption is not explained. Until this is detailed it is all but impossible for any involved party to determine if the fees proposed are reasonable or not.

Question 2

Refer to the Summary of Proposal for further information

Are you in agreement with the fixed fee for Boundary Activities being \$300.00?

No

Comments

How can \$300 be justified? What is done for this money? I would think a token fee of \$100 would be sufficient to rubber-stamp an exemption.

Question 3

Refer to the Summary of Proposal for further information

Are you in agreement with the fee for Fast track consents (land use Controlled activities) being a \$1,125.00 deposit which covers the first seven and a half hours of processing time and the ability to charge for additional time?

No

Comments

Again, what is done for this money. Council really does need to elucidate.

Question 4

Refer to the Summary of Proposal for further information

Are you in agreement with the fee for Temporary or Marginal Exemptions being a \$150 deposit which covers the first hour of processing time and the ability to charge for additional time?

No

Comments

Ditto, what on earth does Council actually have to do for an exemption?

Submission Status

Are: