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Report 02.602

24 September 2002

File: Y/12/2/8

Report to the Rural Services and Wairarapa Committee
from Steve Blakemore, Manager, Planning and Resources

Extension of Time Period for Objection to Additional Charges

1. Purpose

To obtain a decision to approve or decline an extension of the time period in which Mr A J Barton is able to make an objection to the additional charges associated with processing withdrawn consent application WAR 000230.

2. Background

- 2.1 Mr Barton withdrew his consent application WAR 000230 for access along the Ruamahanga stopbank, one and a half working days before the hearing.
- 2.2 Council advised Mr Barton on 14 June 2002 that the additional charges for processing his consent application were \$1702.87 plus GST and an invoice and breakdown of costs was provided. (Attachment 1) Details of costs to date and an estimate of costs to completion was provided earlier on 10 April 2002. (Attachment 2.)
- 2.3 Mr Barton wrote to the Council on 28 August 2002 criticising the Officers report and refusing to pay the additional costs. He asserts that the Council owes him money by way of a refund. (Attachment 3.)

3. Procedures

- 3.1 Section 357 of the Resource Management Act makes provision for objections to be made to the Council in relation to additional charges.
- 3.2 Such objections have to be made within 15 working days after the requirement has been notified to the person.

- 3.3 Mr Barton's letter is considered to be an objection and was received outside of the 15 day period. A total of 52 working days elapsed before the objection was received.
- 3.4 The Act provides for Council to receive objections out of time at its discretion and the Committee needs first to decide whether an extension of time should be granted to cover Mr Barton's late objection.
- 3.5 The Council's Resource Management Charging Policy (July 2001) sets out the requirement for application costs and additional charges to be paid even if an application is withdrawn. It is a publicly available document and is on the Council website.
- 3.6 Mr Barton has been advised that leave for his late objection will be considered by the Committee. He has been given the opportunity to explain any particular circumstances relating to the timing of his objection. (Attachment 4.)

Should the Committee approve an extension, then the substance of the objection can be considered at the next Committee meeting on 12 November 2002. Decisions of the Committee at that meeting can be appealed to the Environment Court.

4. Discussion

- 4.1 Mr Barton was given advance notice that additional charges would be levied. Advice was given on 10 April 2002 that additional costs would be incurred and that this would include completion of the Officers report.
- 4.2 In the letter accompanying the invoice for additional charges, an invitation was given to Mr Barton to contact the Section Leader if he had any questions or would like to discuss the additional costs. This was not taken up.
- 4.3 Specific advice covering the time requirements for objecting to additional costs was not provided. This is not standard practice and may encourage objections. This case was also most unusual as it involved late withdrawal by an applicant just prior to a hearing.
- 4.4 Subject to no circumstances being provided in relation to the lateness of the objection, staff consider that the 15 working day period for objection was adequate and an extension of the timeframe is not warranted.
- 4.5 Mr Barton has the opportunity to appeal the additional costs to the Environment Court. He will require a waiver from the Court for his objection to be considered outside the specified 15 working day period.

4. Recommendation

That the Committee resolve not to receive Mr Barton's objection to additional charges levied in respect of Consent Application WAR 000230 (withdrawn) on the basis that it was received well outside the time limits prescribed under Section 357(5) of the Resource Management Act 1991.

Report prepared by:

Approved for submission by:

S D Blakemore
Manager, Planning and Resources

C F Wright
Divisional Manager, Wairarapa