



1 June 2018

TRIBUNAL CIRCULAR

Applications for Costs

The Tribunal issues the following as its standard order in relation to costs at the conclusion of its determinations:

S28(1) of the *Resource Management & Planning Appeal Tribunal Act 1993* directs that each party to this appeal is to pay its own costs. The Tribunal will consider an application for a costs order under s28(2) if it is made in writing with supporting submissions within 14 days of the date of this decision. If an application is made, the operation of s28(1) is stayed until further order.

If requested, the Tribunal will reconvene to hear any evidence in respect of any matter bearing upon an order for costs.

The parties should note that as a consequence of the review of the terms of orders issued by this Tribunal, a question arises as to whether a person filing an Application for Costs without supporting submissions would stay the operation of the ordinary order of the Tribunal.

The Tribunal had previously received application for costs without supporting submissions, allowing a party to seek an extension of time to file submissions in support of the application.

There is no such allowance made in the terms of the ordinary order issued. For a costs application to be validly filed, and thus staying the operation of the self-executing order that each party bear their own costs, it requires accompanying supporting submissions.

In order for a party to obtain a variation to a costs order made in an appeal, they must seek a variation to the terms of a judgement of the Tribunal pursuant to Section 23(6) of the *Resource Management and Planning Appeal Tribunal Act 1993*. Such a variation is one which would, as part of the Tribunal's obligation to accord Natural Justice, require parties to be heard before a variation is made.

As such, the practice of filing costs applications close to the expiry time of the making of an application, without supporting submissions, should be carefully reviewed by practitioners and persons who appear before the Tribunal.

The Tribunal recognises that the time for obtaining instructions and preparing costs applications on complicated matters may require longer than 14 days. From now on, the

standard cost order of the Tribunal will allow for the making of costs applications within 21 days.

Please note that the previous practice of last minute cost applications without supporting submissions, may result in them not being validly lodged in the absence of the approval of a variation to the original order, and the self-executing order taking effect.

M Duvnjak
Chairperson
Resource Management & Planning Appeal Tribunal