

## **4.22. Annual Review Resource Consent & Permitted Activity Monitoring Fees & Charges - Resource Management Act 1991**

(Report prepared by G McMurdo/G Ferguson)

E360-005-007-01

### **Purpose of report**

1. The purpose of this report is to provide Council with the review of fees and charges for Monitoring activities under the Resource Management Act 1991 (the RMA) and consider an increase to the existing fees schedule for the 2023/2024 year.

### **Executive Summary**

2. The current fees were last increased in July 2022 using the CPI.
3. The current fees have been reviewed and it is recommended that there is **13.5%** increase to the RMA Monitoring charges for the 2023/2024 financial year.
4. The Marlborough District Council Resource Management Act 1991 - Monitoring Charging Policy was changed in 2020 to allow for CPI adjustments to Monitoring Fees and Charges automatically on an annual basis from the 1 July each year. Increases greater than CPI are required to be consulted on using the special consultative procedure as provided in section 83 of the Local Government Act 2002 (LGA 2002).

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### **RECOMMENDATION**

**That Council approve consultation under section 83 of the Local Government Act 2002 on Option A the proposed increases to the existing fee schedule for charges associated with RMA monitoring activities effective from the 1 July 2023.**

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### **Background/Context**

5. One of Council's functions is to ensure that resource use, as facilitated by the granting of consents, is sustainable. It is Councils duty to monitor the exercise of resource consents.
6. The Environmental Protection Group is responsible for discharging the Council's ongoing consent management responsibilities under the RMA. These include:
  - i. The administration and monitoring of resource consents
  - ii. The gathering of information necessary to monitor the state of the environment of the region.
7. Section 36(1)(c) of the RMA allows Councils to charge consent holders for costs associated with the Councils functions in relation to the administration, monitoring and supervision of resource consents.
8. Section 36(1)(cc) of the RMA allows Councils to charge persons who carry out permitted activity, for the monitoring of these activity is a National Environmental Standard (NES) empowers Council to charge for this activity. Currently The National Environmental Standard for Plantation Forestry 2017 and the national Environmental Standard for Freshwater Water 2020 empower Councils to charge for monitoring.
9. Costs of ongoing administration of Resource Consent files include:
  - a) Acquiring and maintaining computer software that stores information about resource consents (and compliance monitoring);

- b) Developing, updating and maintaining the information contained in Council's databases with regard to Resource Consents;
  - c) Responding to public and personal enquiries about Resource Consents. These might be in the form of Local Government Official Information Act requests, media requests, etc. Council is also required to provide information with regard to resource consents to central government;
  - d) General administration of Resource Consent files.
10. Methods and frequency of monitoring consents differ depending on the type of consent and conditions. Costs associated include staff time and material costs associated with monitoring a consent, such as:
- a) Staff time for site visits and inspections;
  - b) Staff time to review results, management and/or monitoring plans;
  - c) Staff time for the preparation of notification of compliance and updating databases;
  - d) Staff time for the preparation of abatement notices and infringement notices;
  - e) Staff time for reporting and record keeping
  - f) Travel costs;
  - g) Laboratory testing and analysis of samples;
  - h) Consultant costs, where they are used to monitor/advise on consents on behalf of council;
  - i) Disbursements, including photocopying and postage costs; and
  - j) Any other actual and reasonable costs as incurred.
11. Fees and charges may be fixed under section 36 of the RMA after using the special consultative procedure set out in section 83 of the Local Government Act 2002 and in accordance with section 36(3) of the RMA.

***Public versus Private Good***

12. In accordance with section 36AAA in setting the schedule of fees for administration, supervision and monitoring of resource consents, Council has considered the relative benefits to the consent holder and the community at large.
13. It is generally viewed that because the monitoring activity is solely occasioned by the granting of consent to an applicant and they directly benefit from it, the consent holder should bear the full monitoring cost.

***Council's Charging Policy-Resource Management Act Monitoring Fees***

14. The MDC Charging Policy for activities undertaken under the Resource Management Act 1991 and the Local Government Act 1974 was adopted in February 2007. Council's charging policy is based on cost recovery. A consent holder is expected to pay the full monitoring costs (100% cost recovery).
15. The current Resource Management Consent Monitoring Charging Policy (January 2021) includes the ability to make CPI increase to fees and charges without public consultation. The inclusion of a CPI adjustment to fees under the Policy removes the requirement to undergo special consultative processes for CPI adjustments to fees and align with the Resource Consents Charging Policy.

***Council's Revenue and Financing Policy***

16. The Council's Revenue and Financing Policy (contained in its Long Term Plan) states that 60% of the Environmental Protection group's costs should be recovered from individuals (private good) and 40% is funded by rates (public good).
17. The Environmental Protection groups responsibilities include activities which are generally not cost recoverable (0% cost recovery), such activities include:

- a) Responding to environmental incidents;
- b) Responding to customer complaints;
- c) Reporting and record keeping of incidents/complaints;
- d) Permitted activity monitoring (excluding where empowered to charge through a NES);
- e) Responding to public enquiries. These might be in the form of Local Government Official Information Act requests, media requests, etc. Council is also required to provide information with regard to complaints to central government.

### **Assessment/Analysis**

- 18. The existing fees and charge's structure is a mix of fixed monitoring charges and hourly based charges.
- 19. Fixed charges are imposed for monitoring activities which have consistent requirements for officer time for compliant activities, such activities include water take and coastal mooring permits.
- 20. Fee structure and fee levels are reviewed annually.
- 21. The staff within the Environmental Protection group are currently split between reactive complaint activities (nonchargeable) or proactive monitoring activities (cost recoverable). Due to the number and nature of complaints received, along with staff vacancies, recruitment, and development the Environmental Protection group activities are not expecting to achieve a 60:40 public vs private benefit split in activities and responding cost recovery in 2023-24. However, we are expecting to achieve a greater shift towards this target in 2024-25 as staff gain experience.
- 22. To reduce a budget short fall and corresponding impact on rates, the Environmental Protection group must consider the annual CPI and changes in operating expenditure on fees and charges.
- 23. The Resource Consent Team budget provision and fee review for the 2023/2024:
  - a) Current Revised Budget 2023/2024 (\$334,124) Deficit based on 60:40 user pay/ratepayer
  - b) CPI Fee increase (7.2%) 2023/2024 (\$264,356) Deficit based on 60:40 user pay/ratepayer
  - c) Fee increase (13.5%) 2023/2024 (\$185,854) Deficit based on 60:40 user pay/ratepayer
- 24. The proposed increase does not achieve the 60:40 budget split between user and rate payer, this however reflects a fair and reasonable recovery of the actual costs incurred by Council in respect of monitoring activities.
- 25. While the groups activities remain proportionally directed to non-cost recoverable work programmes due to demand, the group is unable to meet a 60:40 split in cost recovery.

### **RMA Monitoring Fee Schedule**

- 26. A review of the fee schedule has been carried out (attached as **Attachment 4.22.1**). An increase of 13.5% is recommended to improve the group's private good recovery in alignment with Council's Revenue and Financing Policy with the schedule of fees and charges.

### **Goods and Services Tax**

- 27. The charges described in this document include GST.

**Recommendations**

**Option A –13.5% Fee increase**

*Advantages.*

- 28. This increase will allow the Environmental Protection group fees and charges under the RMA to assist in covering the cost of the Environmental Protection Teams private benefit function's and improve alignment with Council's Revenue and Financing Policy.
- 29. The proposed increase to fees will maintain the group's ability to meet statutory and customer demands by maintaining the groups level of service.
- 30. Will reduce additional burden on Councils rate payer's fees.

*Disadvantages*

- 31. An increase in regulatory costs to Council customers.

**Option B –7.2% Fee increase**

*Advantages.*

- 32. The proposed increase to fees will increase the user pays budget amount from the status quo.
- 33. This proposed increase aligns with the annual CPI increase.

*Disadvantages*

- 34. This increase will not further reduce the RMA Monitoring fees and charges under the RMA to align with Council Revenue and Financing Policy for Environmental Protection functions.
- 35. An increase in regulatory costs to Council customers.
- 36. Additional burden on Council rate payers of \$78,502 than the recommended option.

**Option C – Status Quo Maintain Current 2022/23 Fee Structure.**

*Advantages*

- 37. No increase in regulatory costs to the Council customers.

*Disadvantages*

- 38. No increase to fees will place additional burden on Councils rate payers of \$148,270 than the recommended option.
- 39. No increase in fees will not align with Council Revenue and Financing Policy for Resource Consent functions.

**Attachment**

Attachment 4.22.1: 2023/2024 Current Fee Schedule and proposed changes

Page 119

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<b>Summary of decision-making considerations</b>			
<b>Fit with purpose of local government</b>			
The proposal enables Council to provide good-quality and cost-effective service to customers and ratepayers.			
<b>Fit with Council policies and strategies</b>			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Financial Strategy	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Social well-being	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Economic development	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Environment & RMA Plans	<b>X</b>	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Land transport	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
This proposal contributes to the annual plan and financial strategy relating to supplying Resource consent monitoring activities equitably, efficiently, justifiably and transparently.			
<b>Nature of the decision to be made</b>			
Approval of increased charges.			
<b>Financial considerations</b>			
The proposed fees will assist in ensuring the required income is obtained to maintain the function budget.			
<b>Significance</b>			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
<b>Engagement</b>			
The special consultative procedure will be followed to allow stakeholder engagement.			
<b>Risks: Legal / Health &amp; Safety etc</b>			
There are no known significant risks or legal implications as fees are permitted to be charged through the RMA.			
<b>Climate Change Implications</b>			
There are no known climate change implications to this decision.			

## Attachment 4.22.1

**Schedule of Fees and Charges**

<b>MDC Consents - Administration, Monitoring &amp; Supervision</b>	<b>Charge Type</b>	<b>Current Charge \$</b>	<b>Proposed 2023/24</b>
Sampling including the contracting of an independent consultant	Variable	Actual	Actual
Laboratory costs	Variable	Actual	Actual
Administration fee (monitoring)	Fixed Annual	\$44.00	\$50.00
Site inspection	Variable	Actual	Actual
Disbursements	Variable	Actual	Actual
Monitoring Charge-Water take Permits	Fixed Annual	\$285.00	\$324.00
Monitoring Charge-Swing Moorings	Fixed Annual	\$71.00	\$81.00
Environmental Protection Officer	Fixed Annual	\$164.00	\$186.00
Student Environmental Protection Officer	Fixed Annual	\$109.00	\$124.00

**Monitoring Charges for Permitted Activity Under the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017**

Environmental Protection Officer (per hour (pro rata))	Fixed annual	\$164.00	\$186.00
Student Environmental Protection Officer (per hour (pro rata))	Fixed annual	\$109.00	\$124.00
Laboratory costs	Variable	Actual	Actual
Consultant	Variable	Actual	Actual
Site Inspection	Variable	Actual	Actual
Disbursements	Variable	Actual	Actual
Additional monitoring due to non-compliance	Variable	Actual	Actual

**Monitoring Charges for Permitted Activity Under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020**

Administration / Notification fee	Fixed annual or one off/ Notification fee	\$44.00	\$50.00
Environmental Protection Officer	Per hour	\$164.00	\$186.00
Laboratory Costs	Variable	Actual	Actual
Consultants	Variable	Actual	Actual