

Resource Management Consent Monitoring Charging Policy

July 2023



For more information, contact the Marlborough District Council:

MARLBOROUGH DISTRICT
COUNCIL PO BOX 443
BLENHEIM 7240
NEW ZEALAND

TELEPHONE (0064) 3 520 7400
EMAIL: compliance@marlborough.govt.nz
WEB www.marlborough.govt.nz

ISO 9001
Document Number:
MPP0001-CI2524



**MARLBOROUGH
DISTRICT COUNCIL**

Contents

1	Policy	3
1.1	Introduction	3
1.1.1	About this document	3
1.1.2	Our philosophy	3
1.1.3	Access to community resources	3
1.1.4	Customer service	3
1.1.5	Goods and Services Tax	3
1.1.6	Automatic fees adjustment	3
1.2	Principles	3
1.2.1	Charges must be lawful	4
1.2.2	Charges must be reasonable	4
1.2.3	Charges must be fair	4
1.2.4	Charges will recognize the effects of location	4
1.2.5	Charges must be simple to understand	4
1.2.6	Charges must be transparent	4
1.2.7	Charges must be predictable and certain	4
1.2.8	Council must act responsibly	4
1.2.9	The method of charging	5
1.2.10	Your right of objection and appeal	5
1.3	Consent monitoring charges for resourceconsents	5
1.3.1	Consent monitoring charges	5
1.3.2	The administration charge	5
1.3.3	The compliance monitoring charge - Fixed Annual Charge	6
1.3.4	The compliance monitoring charge - Variable Charge	6
1.3.5	The compliance monitoring charge - Actual Charge	8
1.3.6	Changes to consent monitoring charges	9
1.4	Payment of charges	9
1.4.1	Date charges become operative	9
1.4.2	When charges are invoiced	9
2	Schedule of Fees and Charges (Consent Monitoring)	10

Highlights

- This Policy document contains our regime of resource management monitoring charges for the region. It came into force on 1 July 2017 and includes:
 - Consent monitoring charges
 - Once you receive a consent, you will receive either a one-off or annual consent monitoring charge which includes either:
 - An administration charge (\$50.00 per annum or one-off) and
 - A compliance monitoring charge (variable depending on your consent and compliance) if applicable.
- or
- A fixed annual compliance monitoring charge (this includes the administration charge) and
 - An additional monitoring charge (variable depending on your consent) if the consent is determined in non-compliance.
- MDC will charge actual and reasonable costs for carrying out and monitoring all abatement notices and enforcement orders covering consented activities.
 - The charge out rate for Marlborough District Council (Council) staff for all work relating to our resource management monitoring charges is \$186.00 per hour.

Version	Date	Description	C.I. Ref
1	July 2017	Introduction of Policy	CI1835
2	July 2020	Policy Review	CI2235
3	July 2021	CPI Charges Increase	CI2346
4	July 2022	CPI Charges Increase	CI2442
5	July 2023	Charge Increases	CI2524

1 Policy

1.1 Introduction

1.1.1 About this document

This document is the Resource Management Monitoring Charging Policy (Policy) for the Marlborough District Council (Council). It describes the charges that are payable to Council for a range of consent monitoring activities.

If you obtain resource consent, you will most likely receive an annual or one-off Consent Monitoring charge.

All of the charges in the Policy are made under either section 36 of the Resource Management Act 1991 (RMA), following special consultative procedures of the Local Government Act 2002. These charges are also consistent with the Council Revenue and Financing Policy.

1.1.2 Our philosophy

The RMA has an emphasis on the beneficiary pays principle; those who benefit from the use of natural and physical resources are expected to pay the full costs of that use. The charges in this Policy reflect that philosophy.

1.1.3 Access to community resources

The Council manages the community's resources. Our rivers, aquifers, air, and coastal waters do not have individual ownership, they are owned by the community. However, by obtaining a resource consent, individuals can access these resources for their own private use and economic benefit.

Council's job is to facilitate this resource use. But it must also make sure that the resource use is sustainable, that it is available for public use, both now and in the future. The charges for consent holders in this Policy reflect the reasonable cost of Council doing this job.

1.1.4 Customer service

We are a customer service organisation. We want to provide you with excellent service and value for money. You have a right to good service which comes with the payment of your charges. To this end, the charges in this Policy are:

- Reasonable, fair, and consistent.
- Based on the services we deliver.
- Reviewed annually to limit significant changes to charges.

1.1.5 Goods and Services Tax

The charges and formulae described in this document **include** GST.

1.1.6 Automatic fees adjustment

The fees and charges schedule can be adjusted annually in line with the Consumer Price Index (CPI). Adjustment will be rounded to the nearest dollar. The December Annual CPI figure reported by Stats NZ will be used for the following years annual CPI adjustments.

1.2 Principles

The principles which have guided Council in setting its resource management monitoring charges are set out below.

1.2.1 Charges must be lawful

The Council can only levy charges which are allowed by the RMA.

Section 36 of the RMA provides for consent administration and monitoring charges.

1.2.2 Charges must be reasonable

The sole purpose of a charge is to recover the reasonable costs incurred by Council in respect of the activity to which the charge relates (section 36AAA of the RMA).

1.2.3 Charges must be fair

Charges must be fair and relate to consent holders' activities. Council can only charge consent holders to the extent that their actions have contributed to the need for Council's work.

Council must also consider the benefits to the community and to consent holders when setting a charge. It would be inequitable to charge consent holders for resource management work done in the interests of the regional community and vice versa. We take this into account when setting the proportion of charges we wish to recover for State of the Environment monitoring from an individual consent holder.

Where possible, Council will look for opportunities to streamline and improve processes to ensure that compliance monitoring functions continue to be cost effective and efficient.

1.2.4 Charges will recognize the effects of location

In a district having lengthy and varied travel routes, charges will take time and distance of location into consideration. Council will, however, otherwise provide the same service for the same price.

1.2.5 Charges must be simple to understand

Charges should be clear and easy to understand. The administration and collection of charges should be simple and cost effective.

1.2.6 Charges must be transparent

Charges should be calculated in a way that is clear, logical and justifiable. The work of Council for which costs are to be recovered should be identifiable.

1.2.7 Charges must be predictable and certain

Consent applicants and resource users are entitled to certainty about the cost of their dealings with Council. The manner in which charges are set should enable customers to evaluate the extent of their liability.

Resource users need to know the cost of obtaining and maintaining a consent to manage their business and to plan for future growth and development. Charges should not change unnecessarily; any charges must be transparent and fully justified.

1.2.8 Council must act responsibly

Council should implement its charging policy in a responsible manner. Where there are significant changes in charges, Council should provide advance warning and give consent holders the opportunity to make adjustments.

1.2.9 The method of charging

Council has adopted a charging regime that matches its experience in cost recovery. Experience also indicates that customers generally prefer fixed charges so that they can make a judgement as to likely costs. The Act provides at section 36(1) for setting fixed charges and provides at Section 36(5) for recovering additional costs where a fixed charge is inadequate to recover the Council's actual and reasonable costs in respect of the matter.

1.2.10 Your right of objection and appeal

If you consider any additional charge (that is any charge which exceeds the fixed monitoring or administration charge) is unreasonable, you may object to Council in accordance with s357 of the RMA. You need to make your objection in writing to Council within 15 working days of receiving your account. Council will hear your objection and make a decision on whether to uphold it.

If you are still not satisfied then you may appeal Council's decision to the Environment Court.

1.3 Consent monitoring charges for resource consents

1.3.1 Consent monitoring charges

The components of the consent monitoring charge which consent holders face are;

- A fixed administration charge; and
- A variable charge for compliance monitoring if applicable; or
- A fixed charge for compliance monitoring (this is inclusive of the administration charge).

The details of charges are set out in a separate document, the fee schedule, which can be viewed on the Marlborough District Council's web site at www.marlborough.govt.nz.

1.3.2 The administration charge

Summary	The annual or one-off administration charge for administering your consent is \$50.00 (incl. GST)
---------	---

1.3.2.1 What we do for your money

There is a cost in providing a range of customer services relating to consents. We pass this cost on to consent holders. The services we provide are:

- General Information about your consent and conditions.
- The maintenance of an up-to-date record of your consent on our database.
- The maintenance and improvement of monitoring databases.
- A record of any changes in the status of your consent (e.g. if you surrender your consent or transfer it to another person).
- The administration of these charges.
- The review of the charging policy at regular intervals.
- The maintenance and storage of your permanent consent file.

1.3.2.2 The basis for the administration charge

The basis for the administration charge is the time spent on the above tasks by Council staff. As most consents take about the same time to maintain, this cost is averaged across all consent holders. A standard administration charge applies to all consents, fixed monitoring charges are inclusive of this administration charge.

The charge includes overhead costs which are related to the services we deliver. These costs include office rental, stationery, and computer and database costs.

1.3.2.3 Application of the administration charge

The administration charge is \$50.00 per consent per year (incl. GST). The full customer service charge applies to consents which:

- Are active and where there is ongoing administration and/or monitoring by Council or by the consent holder
- Are temporarily inactive such as before the activity has commenced, but where there will be ongoing administration and/or monitoring when the consent becomes active.

1.3.2.4 Circumstances where the annual administration charge does not apply

The annual administration charge does not apply:

- Where the activity which the consent was granted has concluded (e.g. land use building consent) and the consent will most likely not require future monitoring.
- Where the activity is subject to a fixed annual monitoring charge where the administration charge is included in this fixed charge.
- Other circumstances at our discretion.

The annual administration charge does not apply in this instance because little or no work is required to maintain the record on the database in the long term.

1.3.3 The compliance monitoring charge - Fixed Annual Charge

Summary A fixed annual charge for monitoring of a specific type of consent. Current fixed annual monitoring charges are:

- Coastal Permits - Moorings (charged per mooring) \$81.00 (incl GST)
- Water Take Permits (charged per water meter) \$324.00 (incl GST)

The fixed charges are inclusive of the annual administration charge

For consent monitoring charges where activities have historically indicated largely consistent and repetitive costs for a 'desktop review' and/or inspection a flat fixed charge is set up.

Costs for following up any non-compliance are not included in the fixed annual monitoring charge; these costs are therefore charged as additional variable costs.

1.3.4 The compliance monitoring charge - Variable Charge

Summary Your compliance monitoring programme is tailored to your individual circumstances. You pay only the cost of monitoring your consent. This is charged at an hourly rate.

- Environmental Protection Officer: \$186.00 /hour (incl GST)
- Student Environmental Protection Officer: \$124.00 /hour (incl GST)
- Other Council officers charged at rate on Council's fees schedule

Variable charges apply to activities where consent conditions and the nature and scale of activity is likely to vary. All variable charges are based on actual and reasonable costs since the previous invoice. There may be some instances where the variable charge may be \$0 as no monitoring is undertaken in the previous year.

Resource consents are invoiced variable charges when Council has undertaken monitoring of the consent including:

- Undertaking site inspections to ensure the activity complies with the consent requirements.
- Ensuring compliance with plans (including site plans, management plans and contingency plans) and quality criteria.

- Quality checking and filing of monitoring returns.
- The preparation of reports for file or Council.
- Staff time and costs associated with non-compliance follow up, including correspondence, reports, investigation and issuing abatement notices.

Variable charges are considered additional charges under section 36(5) of the Act. Section 36(7) provides for any additional charge to be open to objection and appeal.

1.3.4.1 What we do for your money

The purpose of compliance monitoring is to confirm that consent holders are meeting the conditions of their consents. The conditions on resource consents are designed to control any adverse effects on the environment arising from the exercise of the consent. We need to know that consents are being complied with. In this way we can ensure the resource you are using remains fit for you and other consent holders to use.

We have a strategic compliance monitoring programme that prioritises monitoring of resource consents that have either a greater environmental impact, generate community concern or are related to trends highlighted through the State of the Environment Report.

As part of the monitoring programme for a consent, we may:

- Carry out site visits and inspections (where required).
- Review management plans and/or the results of any monitoring carried out by you or your consultants.
- Advise you on the outcome of the compliance visit.

Occasionally, we may also need to use outside expertise to assist with the monitoring of some consents. The costs of these experts may be included as part of your compliance monitoring charge.

1.3.4.2 The basis for the compliance monitoring charge

The basis for the compliance monitoring charge is the actual and reasonable cost of carrying out your compliance monitoring programme. You pay only the cost of monitoring compliance with your consent.

Council has considered the criteria in section 36 of the RMA before setting this charge. It considers that the need for this type of monitoring arises only because of consent holder's activities and that the benefits accrue entirely to consent holders. It is appropriate, then, for consent holders to bear the reasonable cost of this monitoring.

Variable charges are made up of the cost of staff time to carry out an inspection (if required), audit any monitoring information provided by you, follow up any non-compliance, and reporting back to you outcomes of any compliance monitoring (if required).

Where Council uses a consultant that provides a skill set and experience that will assist the compliance process, particularly with any complex or technical matters; the charge out rate is based on the charge out rate of the consultant engaged to undertake the work.

1.3.4.3 Self-monitoring and auditing

Where appropriate, some activities will be monitored using self-monitoring, where you provide us with information or data on how your activity is meeting your consent conditions. We will audit your information or data and charge for this time on an actual and reasonable basis. The charge you receive will only cover the work we do to assess the data you provide and report to you on any compliance outcomes, which means we can pass on some savings to consent holders.

We reserve the right however to carry out selected or random compliance monitoring ourselves if deemed necessary on activities where no inspections have been identified. You will only be charged the full cost of the inspection if we find that you are not fully complying with your resource consent.

1.3.4.4 Additional compliance monitoring charges

Fixed compliance monitoring charges are based on the premise that consent holders use resources in a responsible manner and according to the conditions of their consent. The charge covers only routine monitoring.

Where the actual and reasonable costs incurred by us in carrying out compliance monitoring exceed any fixed compliance monitoring charge identified for your resource consent, then these costs may be recovered by way of an additional charge. Any additional charge is levied under section 36(5) of the Act. Section 36(7) provides for any additional charge to be open to objection and appeal.

Additional compliance monitoring charges apply in situations where:

- Resource users need to undertake further work to meet conditions of their resource consent and there is consequently additional monitoring work required.
- Further inspections, assessment and reporting are required from Council for the activity than originally anticipated.
- Non-compliance with consent conditions has been observed following an incident notification.
- Site visits requested by the consent holder.

Where non-compliance is recorded during **routine or random monitoring**, remedial action is identified and advised to the consent holder in writing. You will receive an additional charge for the costs of the follow up undertaken by Council to ensure that compliance with consent conditions is met.

Where we carry out monitoring as a result of an **incident notification** (for example, a complaint about water pollution or odour release), the consent holder is only charged if the consent is breached and non-compliance is observed.

Where we carry out an inspection to determine compliance with **an enforcement order or abatement notice** for a consented activity, we will charge the consent holder actual and reasonable costs for any follow up visit to confirm that the required action has been taken and full compliance with the notice and your resource consent is achieved.

We levy any additional charges on an actual and reasonable basis. The charge is made up of:

- The cost of any staff time (including travel time) necessary to carry out an inspection and to prepare a report at the charge out rates identified the fees schedule.
- Associated disbursements, such as specialist advice.

In all circumstances where an additional charge might apply, we provide you with a written report stating why your consent is not in compliance and, where practicable, give suggestions for improvement.

1.3.5 The compliance monitoring charge - Actual Charge

1.3.5.1 Use of specialist advisers

Council has a statutory duty to ensure that a monitoring requirement is complete in respect of all resource management issues. From time to time, Council may retain outside expertise and the costs will accrue to the consent holder. This may include charges for sampling and testing.

1.3.5.2 Use of external providers

Council may, from time to time, use consultant firms to supply the necessary monitoring capacity. The costs will accrue to the consent holder. For monitoring, acquisition of further information, checking and (if required) taking enforcement action to ensure compliance, are chargeable actions.

1.3.5.3 Disbursements

Council may incur charges when monitoring your consent; these may include such costs as water taxi charges, photocopying etc., such costs will accrue to the consent holder.

1.3.6 Changes to consent monitoring charges

1.3.6.1 Consent termination

Where a resource consent expires, or is surrendered, during the course of the year 1 July to 30 June the following year and the activity to which it relates ceases before 1 December that year, any invoiced annual fixed monitoring charge will be credited 50% for that year.

1.3.6.2 Consent expiry and replacement

Where a resource consent expires during the course of the year, but the activity to which the consent relates continues until the consent is replaced, then the consent monitoring charges outlined in this Policy apply.

1.3.6.3 Consent transfer

Where a resource consent is transferred during the course of the year (e.g. when a property with a consent is sold to a new owner), it is the responsibility of the original owner to advise us of the change. *Any apportionment of fees after the charge has been made remains the responsibility of the respective owners.* We may not accept a transfer of consent unless the fees have been paid in full.

1.3.6.4 Relationship of charges to infringement offences

Where we utilise the infringement offences legislation for environmental offences, no charge will be made for preparation of documents relating to the issue of the infringement notice.

1.3.6.5 Relationship of charges to enforcement orders and abatement notices

Council may also seek reimbursement for any actual and reasonable costs it incurs in inspecting an activity to determine compliance with an enforcement order or abatement notice under section 315 and section 323 of the RMA.

1.4 Payment of charges

1.4.1 Date charges become operative

This Policy applies from 1 July 2017 and will continue in effect until amended or replaced under section 36(3) of the Act. We intend to review the Policy on an annual basis.

1.4.2 When charges are invoiced

1.4.2.1 Consent monitoring charges

Consent monitoring charges are applicable from the date of the granting of your consent. Consents which have ongoing consent monitoring charges are invoiced on the granting of the consent and annually thereafter for each period 1 July to 30 June the following year. Consent with one-off monitoring charges are invoiced on the granting of your consent. Annual monitoring and administration charges cover the period 1 July to 30 June the following year. If an activity is consented during the period 1 July to 30 June the following year, the full annual monitoring charge is invoiced. The first annual monitoring or administration charge is not invoiced on a prorate basis.

1.4.2.2 Remission of charges

We may remit any charge referred to in this Policy, in part or in full, on a case by case basis, and solely at our discretion (see section 36AAB(1) of the RMA).

1.4.2.3 Debtors and unpaid charges

Under this Policy debtors and unpaid charges are treated like any other outstanding amount owed to Council. An outstanding debt will be pursued according to Council's procedures.

2 Schedule of Fees and Charges

Resource Consents - Administration, Monitoring and Supervision	Charge Type	Charge \$ (Incl GST)
Sampling including the contracting of consultant	Variable	Actual
Laboratory costs	Variable	Actual
Administration fee (monitoring) / Notification fee	Fixed Annual or One-off	\$50.00
Site inspection	Variable	Actual
Disbursements	Variable	Actual
Monitoring Charge-Water take Permits	Fixed Annual	\$324.00
Monitoring Charge-Moorings	Fixed Annual	\$81.00
Environmental Protection Officer	Per Hour	\$186.00
Student Environmental Protection Officer	Per Hour	\$124.00