



Statement of Proposal

AMENDMENTS TO THE CHARGES under THE RESOURCE MANAGEMENT ACT 1991 and the HOUSING ACCORDS AND SPECIAL HOUSING AREAS ACT 2013

Commencing 1 July 2021

1. Nelson City Council's proposed amendments to the Charges under the Resource Management Act 1991 and the Housing Accords and Special Housing Areas Act 2013

Nelson City Council (**Council**) would like to know what you think of the proposed amendments to the charges relating to the Resource Management Act 1991 (RMA) and the Housing Accords and Special Housing Areas Act 2013 (HASHAA).

The current charges came into effect on 1 July 2020. The charges were set to ensure those who benefit from the service pay a fair and reasonable share of the costs of these services.

Council has reviewed these charges and is proposing some minor changes as described below. We want to know what you think of the proposed changes. In making decisions on this proposal, Council will be taking account of all submissions made.

The proposed Resource Management Act and Housing Accord and Special Housing Area Act Charges are attached to this Statement of Proposal, with the changes underlined. Paper copies of this document are available at the Council's Customer Service Centre and in Nelson libraries.

2. The Proposal

Detailed analysis of the issues and options is provided in section 4 of this proposal. The charges schedule with proposed changes is included in Attachment 1, and the proposed amendments are outlined below:

- a) Increase the hourly charge out rate from \$160 per hour to \$162 per hour
- b) To have the ability to increase the hourly charge out rate by the Consumer Price Index (CPI) annually automatically

The objective of the proposal is to review current charges under the RMA and HASHAA and make any necessary changes to ensure the costs associated with providing services are fairly met by those benefitting from that service.

Consideration under the relevant legislation

This Statement of Proposal to amend the RMA and HASHAA charges has been prepared in accordance with the following legislation:

- RMA sections 36 and 36AAA
- HASHAA section 77
- Local Government Act 2002 (LGA), sections 83 and 150

Section 36AAA of the RMA provide that charges for regulatory functions for the purpose of recovering the reasonable costs incurred by the Council in respect of the activity to which the charge relates. Those gaining the benefit from the regulatory service paying the reasonable cost for that service and those whose actions result in the need for the Council actions to which the charge relates, paying the reasonable costs associated with that action.

Section 77 of HASHAA provides that an authorised agency, having regard to the criteria set out in section 36(4) of the RMA is able to fix various charges under HASHAA.

Section 6(2) of HASHAA provides that every reference to the RMA in HASHAA is to be read as a reference to the RMA as in force on 4 September 2013. Section 36(4) of the RMA as in force on 4 September 2013 provides:

"(4) When fixing charges referred to in this section, a local authority shall have regard to the following criteria:

(a) 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:

(b) a particular person or persons should only be required to pay a charge—

(i) 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; or

(ii) where the need for the local authority's actions to which the charge relates is occasioned by the actions of those persons; or

(iii) in a case where the charge is in respect of the local authority's monitoring functions under section 35(2)(a) (which relates to monitoring the state of the whole or part of the environment), to the extent that the monitoring relates to the likely effects on the environment of those persons' activities, or to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole,—

and the local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act—

(c) in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or

(d) where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties."

Section 36(3) of the RMA requires that charges may be fixed under the section only in the manner set out in section 150 of the LGA , and in accordance with the criteria for fixing charges in section 36AAA (or for HASHAA, the criteria listed above). The LGA provides that the special consultative procedure must include:

- A statement of proposal (and a summary of it if required) being made as widely available as practicable as a basis for consultation (section 83(1)(c)). The statement of proposal must include a statement of the reasons for the proposal, an analysis of the reasonably practicable options and any other information the local authority identifies as relevant (section 87(3)).
- An identified consultation period of at least one month during which feedback on the proposal may be provided to Council (section 83(b)(iii)).
- An opportunity for people to present their views to the Council (section 83(d)) and a description of how Council will provide persons interested in the proposal with an opportunity to present their views (section 83(b)(ii)).

Special Consultative Procedure

Outcomes of this special consultative procedure could include:

- Retaining the existing charges
- Adopting the proposed amendments outlined in this Statement of Proposal, or a variation of these, based on community feedback
- Adopting a higher increase in charges, based on community feedback

3. The Approach to Charges

Council's current charging structure for resource consent processing and monitoring, designations, plan changes and all other activities under the RMA and HASHHA is to charge a fixed sum of money for the tasks where the costs relating to staff time are known or charge a fixed initial sum of money (based on the nature of the task or category of consent or application) for tasks that require a varied amount of staff time. Where an initial charge is required it is credited to the applicant's account and when the task is completed the final costs are debited against the applicant's account. A refund is made if the cost is less than the initial fixed charge, or an account for further payment is sent if the costs exceed the amount of the initial fixed charge.

The charges are based on:

- a) The time spent by Council staff and specialist advisers to undertake the task; and
- b) The hourly charge out rate or the consultant hourly charges; and
- c) Overhead costs.

The 2009 Amendments to the Resource Management Act 1991 introduced mandatory discounting on administrative charging under section 36. The Resource Management (Discount on Administrative Charges) Regulations 2010 came into force on 31 July 2010. The default discount is 1% of the total of the administrative charges the local authority imposes for every working day on which the application remains unprocessed beyond the time limit, up to a maximum of 50 working days.

4. Issues and Options

Since the last review of RMA and HASHAA charges there has been new national provisions to consider, monitor and report on. Organisational support costs and external expertise costs increase by CPI annually. The resource consent hourly charge out rate is proposed to increase to match the increase in costs. It is also proposed to have the ability to apply the CPI increase to the hourly charge out rate automatically on an annual basis when no other changes are required.

No changes are proposed for planning documents, plan changes, designations or other activities where the charge adequately reflects the reasonable cost.

Resource consent (RMA and HASHAA), administration and monitoring hourly charge out rates

The main factors influencing the level of income received from charges are the hourly charge out rate and the number and complexity of resource consent applications. Consent numbers have remained the same for the last two years but income from fees and charges decreased slightly from 2018/19 to 2019/20. The income for 2020/21 is on track to be similar to last year.

At least 40% of staff time is not chargeable to resource consent applicants. Much of this time is spent answering public enquiries, training, reporting or responding to objections to conditions or costs. When there is time staff review procedures, systems, templates and practices to improve quality and efficiency.

It is reasonable therefore that at least 40% of overall resource consent costs are met by rates. The Council's Revenue and Financial Policy requires 40 to 60% of costs are met by charges. Current fees and charges are on track to recover 45% of costs. It is proposed to increase the hourly rate to \$162 to cover 46% of the anticipated costs as this is considered a reasonable increase (less than 2%), in the current economic context. The table below identifies the percentage cost recovery from charges for various hourly rates.

Hourly charge out rate	% of 2021/22 costs met by charges
\$160 (current)	45
\$162 (proposed)	46
\$168	48
\$176	50
\$185	53
\$195	55
\$205	58

Automatic CPI increase for the hourly charge out rate

Having the ability to increase the hourly charge out rate by CPI automatically without the need for specific consultation each year will enable this reasonable and minor change to occur efficiently when there are no other changes required. The increased hourly charge out rate will take effect from the start of the next financial year on 1 July. Details of the increase will be made public at least one month prior to the change coming into effect on the Council website and through other media forums.

Assessment

The Council must have regard to criteria listed in section 36AAA of the RMA when fixing charges under the RMA. Council must have regard to the criteria set out in section 36(4) of the RMA when fixing charges under HASHAA. Proposals in section 2 above have met these criteria as follows:

- a) The proposed hourly charge out rate ensures the applicant better meets the reasonable costs incurred by the Council in consent processing and monitoring since they receive the majority of the benefits of the consented development. Current charges cover 45% of costs yet up to 60% of overall staff time is spent on processing and monitoring resource consents. It is fair to increase the charge out rate so a better portion of the costs are met by the applicant or consent holder;
- b) It is considered reasonable to increase the hourly charge out rate by CPI automatically if required to cover the increasing costs of providing the service. This reduces staff time in administrating the procedural costs of the change when no other changes to charges are required; and
- c) Overall, the proposed increased hourly charge out rate has been set at a level that will recover the reasonable anticipated costs incurred by the consent authority.

The proposed increase is similar to other councils which are currently charging hourly rates ranging from \$153 to \$203 for planning staff.

Options Analysis

Option 1 — Retain the existing charges

While applicants and consent holders would not face increased charges more of the costs of the activity will need to be covered by income from rates, rather than those directly benefitting from the Council services. If no increases are made now there may need to be larger increases in the future.

Option 2 — Increase the hourly charge out rate to recover 46% of overall costs as proposed in Attachment 1

This option improves the recovery rate from applicants and consent holders, reduces the potential for large increases in the future and reduces the requirement on rates. Increasing charges may cause dissatisfaction or difficulty for some applicants or consent holders that could increase the occurrence of querying or objecting to the charges. However, the proposed increases are considered reasonable and commensurate with the increase in costs of providing the service. The proposed hourly charge out rate will be at a level that is comparable to the charges for similar activities in other councils.

Option 3 — Increase the charge out rate to recover 50% of overall costs

This option ensures applicants and consent holders cover the costs of their service but results in a 10% increase in the hourly rate from \$160 to \$176. The large increase is not considered reasonable and could deter developments.

Preferred Option

Option 2 — Increase the charge out rate to recover 46% of overall costs as proposed in Attachment 1 and outlined in section 2 above.

Reasons

The proposed amendment better covers the costs for the service than the existing charges and is a reasonable increase compared to existing charges.

Submissions

Anyone may make a submission about any aspect of the proposed amendments to the charges under the RMA and HASHAA and any other options that have been considered. Council, in making its decision, will take account of all submissions made.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

- online at nelson.govt.nz/council/consultations
- by post to RMA and HASHAA Fees and Charges Amendments, PO Box 645, Nelson 7010
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

Submissions must be received no later than 16 April 2021.

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on **11 May 2021**.



Attachment 1

Proposed Amendments to the Charges under the Resource Management Act 1991 and Housing Accords and Special Housing Areas Act 2013

Proposed changes to existing charges are shown in strike through and underline in this attachment.

Resource Consent Processing and Monitoring, Designations, Plan Changes, all other activities under the Resource Management Act 1991 (RMA) and the Housing Accords and Special Housing Areas Act 2013 will attract an initial charge (deposit) payable at the time of lodging an application as per Section 1 below.

Where the cost of processing the consent is not fully covered by the initial fixed charge (deposit), additional charges will be applied (under Section 36(5) of the RMA). Only additional charges can be objected to under Section 357B of the RMA.

Section 2 below lists the various methods of how costs may be charged to a consent.

All charges listed in this Schedule are GST inclusive

1. Initial fixed charges (deposits)

	Activity	Charge
1.1	All activities (other than listed below)	\$1,500
1.2	Subdivision 1-3 lots	\$1,500
	Subdivision 4 plus lots	\$2,500
1.3	Bore permits; Certificate of Compliance; Change of consent notice; Culverts, weirs and other minor structures on the bed of watercourses; Existing Use Certificate; Extension of lapsing period; Fast track consents (controlled status only); Fences; Flats Plan update and check; Outline Plan approvals; Relocate building; Removal or trimming of trees listed in the Nelson Resource Management Plan (supported and carried out by a suitably qualified arborist); Right of Way approval; Signs; Simple consent process; Transfer/part transfer of Permits	\$500

	Activity	Charge
1.4	Issue of a notice confirming a boundary (or a marginal or temporary) activity is a permitted activity (no additional charges or refunds apply)	\$480
1.5	NOTIFIED APPLICATIONS: Additional charges for applications requiring notification/ limited notification. (This charge must be paid prior to notifying the application and is in addition to the initial charge paid when the application is lodged).	\$7,000
1.6	Removal of trees listed in the Nelson Resource Management Plan that are confirmed in writing by a qualified arborist (level 5 NZQA or equivalent), as diseased or a threat to public safety.	No charge
1.7	Heritage Buildings: Non-notified application to conserve and restore heritage building, place or object listed in the Nelson Resource Management Plan.	No Charge
1.8	Private Plan changes (Note: Council's policy is to recover 95% of the costs involved for the whole process from the applicant).	\$10,000
1.9	Heritage Orders	\$3,500

1.10 Where an application involves multiple consents the initial charge is payable at the higher rate plus \$250.00 for each accompanying application.

1.11 Where all or part of any initial charge (deposit) is not paid at application time, the Council reserves the right to not process that application.

2. Costs Charged to a Consent (less the initial fixed sum of money paid in accordance with section 1 above)

	Details	Charge
2.1	Council Staff – all staff time inclusive of overhead component associated with processing and assessing applications.	\$162 per hour
2.2	Hearings Panel Charges:	
	- per Councillor as Commissioner (rate set by Remuneration Authority)	\$80 per hour
	- Councillor as Chairperson (rate set by Remuneration Authority)	\$100 per hour
	- Independent Commissioner (requested by applicant)	Cost
	- Independent Commissioner (requested by submitter)	Cost less Councillor rate (applicant pays the Councillor rate)
	- Independent Commissioner(s) required for expertise or due to conflict of interest issues	Cost
2.3	Legal advisors and consultants engaged by Council, or reports commissioned, after discussion with the applicant, to provide expertise not available in-house under s.92(2) RMA.	Cost plus administration charges

	Details	Charge
2.4	Experts and consultants engaged by Council to undertake assessment of an application where the complexity of the application necessitates external expertise, or where resource consent processing is required to be outsourced due to conflict of interest issues (this is not a s92(2) RMA commissioning).	Cost plus administration charges
2.5	All disbursements, such as telephone calls, courier delivery services, all public notification costs, postage for notified applications and document copying charges.	Cost plus administration charges
2.6	Consultants engaged by the Council where skills are normally able to be provided by in-house staff or when Council staff workloads are unusually high.	\$162 per hour
2.7	Urban Design Panel reviews a proposal before a resource consent application is lodged (except for circumstances identified in 2.8 below).	No charge
2.8	The applicant agrees (as per 2.3 above) to the Urban Design Panel reviewing the proposal after a resource consent application is lodged; or The applicant is required to provide approval from the Urban Design Panel as part of the Housing Accord and Special Housing Areas Act process.	Cost plus administration charges (an estimate of costs is available on request)
2.9	Where the applicant requests under s357AB independent commissioner(s) for an objection under s357A(1)(f) or (g), the applicant will meet the costs for that hearing.	Cost plus administration charges

2.10 Photocopying Charges

A4	\$0.20 per page;
A3	\$0.50 per page;
A2	\$2.00 per page
A1	\$3.00 per page

2.11 Monitoring Charges

- 2.11.1 If monitoring is required, a one-off charge of \$162.00 will be invoiced as part of the consent cost. Any extra work that is required to monitor compliance with the consent conditions will be charged at the hourly charge out rate for Council staff in 2.1 above and separately invoiced.
- 2.11.2 Monitoring charges associated with review of information required to be provided by a condition of resource consent will be charged for at the appropriate hourly charge out rate for Council staff or actual cost for specialist consultant.

- 2.11.3 Where the applicant is required or authorised to monitor the activity, the Council's costs in receiving and assessing the monitoring information will be charged directly to the consent holder at the appropriate hourly charge out rate for Council staff or actual cost of the specialist involved.
- 2.11.4 Where permitted activity monitoring is able to be charged under legislative provisions (such as the National Environmental Standards for Plantation Forestry), the time taken by Monitoring Officers will be invoiced at the hourly charge out rate for Council staff in 2.1 above.
- 2.11.5 Where annual monitoring is required up to half an hour of staff time per year, a higher initial monitoring fixed fee up front may be charged or the consent may identify regular intervals when monitoring charges will be invoiced calculated on anticipated staff time multiplied by a stated number of years for these types of consents.

2.12 Administration Charges

	Item/Details	Charge
2.12.1	Insurance levy – for each resource consent.	\$30
2.12.2	Street naming and numbering (costs of reporting to Hearings Panel and advising all statutory agencies).	Council hourly charge out rate in 2.1 above
2.12.3	Street numbering – application for alteration.	\$125
2.12.4	Documents for execution – removal of building line restrictions; easement documents, caveats, covenants and other documents to be registered with LINZ presented after subdivision processed or where not associated with a subdivision application.	\$175 for each document
2.12.5	Certificate under Overseas Investment Act.	\$385
2.12.6	Confirmation of compliance with the Nelson Resource Management Plan for NZ Qualifications Authority.	\$385
2.12.7	Confirmation of compliance with the Nelson Resource Management Plan for liquor licence applications.	\$70
2.12.8	Section 357 Administration charge.	\$320
2.12.9	Private right-of-way – review against existing names and advising all statutory agencies where appropriate.	\$320
2.12.10	Authentication report for small-scale solid-fuel burning appliance or open fire.	\$120
2.12.11	Removal of designation.	\$305
2.12.12	Swing Mooring annual charge (monitoring costs are additional, refer 2.10.3 above).	\$75

	Item/Details	Charge
2.12.13	Transfer of Consents to new owner (S.135(1)(a), S.136(1), S.136(2)(a), or S.137(2)(a) Resource Management Act)	\$240
2.12.14	Claiming a swing mooring the Council removed from the Coastal Marine Area that did not have a coastal permit	\$300
2.12.15	Claiming a vessel that was towed and hauled out of the Coastal Marine Area as it was tied to a non-consented mooring that was uplifted	Cost for tow and haul out

2.13 Discount for Late Consents

- 2.13.1 Where statutory processing timeframes have not been met a discount of 1% of the total of the administrative charges imposed for every working day on which the application remains unprocessed beyond the time limit, up to a maximum of 50 working days will apply.

3. Invoicing

- 3.1 Where processing costs exceed the level of the initial charge (deposit), monthly invoices for any additional charges may be sent to the applicant.
- 3.2 Annual swing mooring charges shall be due on 1 December. The initial payment is due within 30 days of the mooring being installed. Moorings installed 1 December to 1 June will incur the full annual charge. Moorings installed from 1 June to 30 November will be charged half of the annual charge. The Council reserves the right to agree to other arrangements in writing.
- 3.3 The Council has no obligation to perform any action on any application until the charges for the action have been paid in full; such payment will be required by the 20th of the month following invoice.
- 3.4 Where any interim invoice is disputed, work on processing the application will be stopped until the matter is resolved at the discretion of the Manager Consents and Compliance.
- 3.5 The option of monthly invoices only, in lieu of initial charges, may be available on strict credit conditions as follows:
- The consent process, or Council involvement in the project, is likely to extend over a period in excess of 6 months; and
 - The total amount for invoices is likely to exceed \$5,000; and
 - The applicant is in good financial standing with a satisfactory credit record and agrees to abide by the Council's usual credit terms or

- d) The applicant is a regular customer of the Council's Resource Consents Business Unit, is in good financial standing with no record of unpaid invoices, who agrees to pay each and every invoiced charge by the 20th of the month following the date of issue of the invoice.

Any disputes relating to an invoiced charge must be resolved after the invoice has been paid. Failure to meet these criteria will result in the option of monthly invoices, in lieu of initial charges plus monthly invoices being withdrawn.

The decision on whether to waive the required charge and institute a system of monthly invoicing shall be made by the Manager Consents and Compliance or Group Manager Environmental Management, having regard to the above criteria.

4. Pre-Application Charges

Detail	Charge
Pre-application discussion with staff on feasibility of a proposal that may not proceed to resource consent.	First half hour – no charge. Additional time charged on an hourly basis at the Council charge out rate as per 2.1.

5. Resource Management Planning Documents

Copies of Plans	Cost
Nelson Resource Management Plan - Text (hard copy)	\$150
Nelson Resource Management Plan - Maps (hard copy)	\$150
CD ROM – combined Nelson Resource Management Plan and Nelson Air Quality Plan – updated annually in Spring	\$15 annually
Nelson Resource Management Plan - hard copy updates issued as required	\$25 annually for text \$25 annually for maps
Nelson Air Quality Plan	\$50
Land Development Manual	\$100

