

# MEETING OF THE HEARING PANEL TO DELIBERATE SUBMISSIONS TO CHANGES TO THE FEES AND CHARGES POLICY (JUNE 2020)

TO THE CHAIR AND MEMBERS

## MEMBERSHIP OF THE COMMITTEE

Cr Claire McKay (Chair)

Cr Grant Edge  
Cr Craig Pauling  
Cr Lan Pham  
Cr Nicole Marshall

A meeting of the Hearing Panel will be held on

**Friday, 21 August 2020 at 10 am**

**VENUE:** Council Chamber  
Ground Floor  
200 Tuam Street  
CHRISTCHURCH

Stefanie Rixecker  
**CHIEF EXECUTIVE**

# Report to the Hearing Panel to Hear and Decide Submissions to the Changes to the Fees and Charges Policy (June 2020)

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<b>Date of meeting</b>	20 August 2020
<b>Author</b>	Tania Harris, Senior Manager Operational Support Katherine Harbrow, Chief Financial Officer
<b>Responsible Director</b>	Katherine Trought, Director Strategy and Planning

## Purpose

1. This paper provides information to support Council as it deliberates on proposed changes to the Fees and Charges Policy.
2. The Fees and Charges Policy forms part of the Revenue and Financing Policy and sets out fees and charges for Council's services, including for the processing of resource consent applications. It is proposed that changes come into effect from 1 September 2020. A hearing and deliberations on the proposed changes to the Fees and Charges Policy provides transparency to the community about Council decisions and direction to staff on changes required.

## Recommendations

### That the Hearing Panel:

1. **receives the summary of the submissions on the proposed changes to the Fees and Charges Policy and staff advice (attachment 1) and agrees that the summary is an accurate reflection of the community feedback received**
2. **directs staff on the preferred option, that is either option 1: keep charge-out rates for consent applications the same and make up the shortfall from general rates reserve, or option 2: increase charge-out rates for consent applications as soon as practical.**
3. **recommends to Council that it commissions staff to review and implement improvements to the overall efficiency of Consent Processing in order to inform the development of the Long-Term Plan 2021-31.**

## Key points

3. Council has consulted on a proposal to increase consent planning officer charge-out rate to a level that will allow recovery of actual and reasonable costs.
4. A summary of the submissions received and the staff advice in relation to the points raised is provided to support Council as it deliberates (attachment 1).

5. In summary:
  - 9 support increasing charge out rate as soon as practicable
  - 6 support keeping the charge out rate the same
  - 7 have proposed a different option
  - 2 gave no options and did not request to be heard.
6. Both written and oral submissions raised wider issues associated with Consent Processing. These ranged from a need to improve efficiencies, allow for regular increases year to year linked to the consumer price index, and ensure the service provided is transparent, simple and customer focused. As some of these issues will require a more substantive review of Council's processes and others raise some matters that are out of scope of the current proposal, it is recommended these areas be addressed through the upcoming Long-Term Plan process.
7. As the majority of the remaining submissions, that is those that are not suggesting different options to those proposed, are supportive of option 2 the staff recommendation is to accept option 2: increase charge-out rates for consent applications as soon as practical.

## **Background**

8. Councils carry out regulatory functions on behalf of the community. Resource consents are required by local authorities to give effect to national legislation, through a planning framework and are therefore a key obligation of the Council as a Consent Authority.
9. There are associated costs, including costs for processing resource consents. Legislation, including the Resource Management Act 1991, the Local Government Act 2002, and the Building Act 2004, determines how Councils can recover these costs. Environment Canterbury may recover all actual and reasonable costs incurred in respect of the activity to which the charge relates.
10. Environment Canterbury's Revenue and Financing Policy, which is included as part of the Long-Term Plan and was consulted on in 2018, sets out the guiding principle of attribution of costs to the beneficiary. This means that Council seeks to allocate actual and reasonable costs to those who benefit. Activities that are directly caused by an individual or confer a benefit on an individual are funded by a form of user-pays charge.
11. This includes applications for a resource consent as required by a regional plan. A resource consent is a permit that allows the holder to use or take water, land or coastal resources, or allows discharge of water or wastes into air, water or onto land.
12. Environment Canterbury is currently under-recovering costs associated with processing of resource consent applications, with the shortfall being met by general rates.

13. A wide-ranging review of our funding model is underway and will deliver recommendations that can be incorporated into the development of the Long-Term Plan 2021-31, and take effect from 1 July 2021.
14. At the Council meeting on 5 March 2020, Council resolved to consult on an interim proposal to increase the planning officer charge-out rates in the Environment Canterbury Fees and Charges Policy. Initiation of the consultation was delayed due to COVID-19.
15. At the 18 June 2020 Council meeting the initiation of a special consultative procedure, as set out the Local Government Act 2002, section 83, was approved. The consultation period commenced on 1 July 2020 and submissions closed on 3 August 2020.
16. At the 23 July 2020 Council meeting, Council resolved to establish a Hearing Panel comprised of the members of Council's Regulation Hearing Committee, that is Councillors McKay, Pauling, Edge, Pham and Marshall. This Hearing Panel is delegated authority to decide whether to increase the planning officer charge-out rates in the Environment Canterbury Fees and Charges Policy.

## **Proposal**

17. The proposed changes to Environment Canterbury's Fees and Charges Policy are to enable recovery of all actual and reasonable costs for the processing of resource consent applications from applicants.
18. The proposed changes will increase hourly charge-out rates for Consents Planners and Senior Consents Planners. This increase will cover the systems, overheads, equipment and staff costs for the time taken to assess and process consent applications.
19. The changes will affect any individuals or organisations applying for resource consents to use or take water, land or coastal resources, or allow the discharge of water or wastes into air, water or on to land.

## **Options**

20. In relation to the issue of under-recovery of costs in the shorter term, two options are presented for Council consideration:
  - Option 1 is to do nothing and accept the continuing under-recovery of costs for consent processing
  - Option 2 is to increase consent planning officer charge-out rate to a level that will allow recovery of actual and reasonable costs from the date the new rates are implemented from 1 September 2020.

21. Under option 2, the proposed charges are:

	Current charge (Inc. GST) / hour	Proposed charge (Inc. GST) / hour
Consent planning officer	\$135.00	\$166.75
Consents senior planning officer	\$155.00	\$184.00

22. Staff recommend Council accepts option 2: increase charge-out rates for consent applications as soon as practical.

## **Submissions on the proposed changes to the Fees and Charges Policy**

23. Engagement on the proposed changes to the Fees and Charges Policy was held between Wednesday 1 July and 10 am Monday 3 August. 24 submissions were received and six submitters indicated a wish to be heard.

24. In summary:

- 9 support increasing charge out rate as soon as practicable, with none to be heard.
- 6 support keeping the charge out rate the same, with four to be heard
- 7 have proposed a different option, with two to be heard
- 2 gave no options and did not request to be heard.

25. At the hearing held on 13 August 2020, two submitters appeared in person to speak in support of their submission, and two joined remotely to present. One person presented in person on behalf of themselves and another submitter.

26. The attached report (attachment 1) summarises submissions received and includes staff advice and recommendations. It is provided to support Council in deliberating on changes to the Fees and Charges Policy.

27. As noted in paragraph 7 above, submitters raised several wider issues associated with Consent Processing. These issues will require a more substantive review of Council's processes and raise some matters that are out of scope of the current proposal. It is important to ensure Environment Canterbury notes this feedback and endeavours to address any long-standing issues identified. As noted in paragraph 14, a wide-ranging review of the funding model is already underway. This review, together with feedback from submitters, will inform the development of the Long-Term Plan 2021-31.

28. Copies of all submissions are available on Environment Canterbury's website.

## **Cost, compliance and communication**

### **Significance and engagement**

29. Councils must use the special consultative procedure set out in the Local Government Act 2002 (section 83) when fixing charge-out rates for staff processing resource consent applications, and this occurred.
30. A statement of proposal was made available and submissions opened on 1 July 2020 and closed on 3 August 2020. Every submitter had an opportunity to be heard.

### **Financial implications**

31. If no changes are made to the current funding model, there is a projected deficit in cost recovery associated with the processing of consent applications of \$600,000 – \$800,000 for the current financial year.
32. Any shortfall in cost-recovery will have to be covered by use of reserves or by general rates. This may impact other Council activities.

### **Risk assessment and legal compliance**

33. It is a matter of public law that persons who hear submissions should also make decisions on the matters submitted on.

### **Consistency with council policy**

34. The current charges for processing resource consents are not fully covering the costs and the deficit is being supported by ratepayers. The changes proposed would ensure the costs for resource consent applications are met by those who initiate or benefit from the activity. This 'user-pays' approach is consistent with our Revenue and Financing Policy.

### **Next steps**

35. If the Hearing Panel recommends option 2: increase charge-out rates for consent applications as soon as practical, the changes will come into effect from 1 September 2020.
36. The minutes of the meeting to deliberate on this matter will be presented to the Council meeting on 27 August 2020.

### **Attachments**

- Summary and staff advice on Fees and Charges policy consultation

<b>Legal review</b>	Catherine Schache
<b>Peer reviewers</b>	Adrienne Lomax, Cindy Butt

ATTACHMENT 1 Summary and staff advice on Fees and Charges policy consultation

Submitter ref	Submitter name	Supports Increase to charge out rates as soon as practical (Y/N)	Supports keeping charge out rate the same and making shortfall from general rates (Y/N)	Support other option	Submitter comments (summarised in some cases)	Staff comments	Wishes to be heard?
24	Ashburton District Council	Y			ADC welcomes the opportunity to comment and support the user pays approach. Concerned that the general rate has been subsidising the activity. Encourages Council to look at inflation rate annual adjustments to fees as they do and also to look at the total hours being charged to ensure they are reasonable and justified.		N
21	Andrew and Neville Chalmers		Y		Consider current charge out fees are reasonable and do not need to be increased. Money that is not needed on compliance can be spent on improving farm practices to benefit the environment. Capital values of rural properties contribute greatly more to general rates than urban ratepayers. Length of consents is being reduced. Compliance costs and additional consents are increasing. Farmers do not have ability to pass on costs to end user. Aware consent section has high turnover and concerned longer than necessary is being spent on consents. If costs exceed the deposit by >10% then a detailed accounts of overruns is needed.		Y
25	Federated Farmers of New Zealand	Y			Ca support user pays approach. Concerns with quality and efficiency of service and proper engagement and consideration of risks of all actions explored. Would welcome meeting with ECan senior management and governance team to discuss operational improvements.		N
23	Royal Forest and Bird Protection Society of New Zealand Inc	Y			Support option as it is consistent with the councils Revenue and Finance Policy, the user pays model and reduces cost to general rates		N
22	Mid Canterbury Independent Irrigators Inc		Y		Consider current charge out fees are reasonable and do not need to be increased. Money that is not needed on compliance can be spent on improving farm practices to benefit the environment. Capital values of rural properties contribute greatly more to general rates than urban ratepayers. Length of consents is being reduced. Compliance costs and additional consents are increasing. Farmers do not have ability to pass on costs to end user. Aware consent section has high turnover and concerned longer than necessary is being spent on consents. If costs exceed the deposit by >10% then a detailed accounts of overruns is needed.		Y
19	Chris and Anne Marie Allen		Y		ECan need to drive efficiencies from the internal processes. Service delivery falls short of service expectations. Urge council to sit down with FFNZ to plan out appropriate response to deliver of environmental oversight and risk and the community investment in that oversight i.e use of UAGC		Y
18	W J Winter & Sons Ltd			Become more efficient in processing work faster & employ more competent skilled people. Noting COVID 19 situation costs should go down everywhere about time Ecan started!			Y
17	Brent Schmack		Y		Costs of obtaining new consents and renewing existing consents are well and truly getting out of control. Excessive amounts of money spent on the consenting process results in less money available for consent holders to spend on actions.		Y



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16	GWJ and EJ Small			Increase charge out rates only if the act and the system is refined to a more efficient one.	Believe that the overall costs are way too high but mostly through inefficiencies. If you want to charge professional rates then you need professionals. The system is more of the problem and I think this is more important to work on first.		N
7	Brendon Morphus	Y			They are making millions in its cost us everything we now have poisoned water everywhere.		N
6	Ad Hendriks		Y		As the consent process is an open ended process with no guarantees how much it is going to cost it is not in the best interest of ECan nor its staff to work towards a quick resolution. Costs due to shortfalls in skill and or knowledge by ECan staff becomes the applicants cost. Consent requests can be beneficial to the environment and the open cost structure might stop someone to do the right thing.		N
5	Andrew McLean			Consents for domestic households should cost less, consents for companies and business should make up the difference.	Ability to pay, no where else to get a consent i.e council is a monopoly		N
4	Wayne Thomas	Y			Little option if ECan is to stay in line with its funding policies. I also support the principle of user pays. Ecan needs to adhere to the funding policies and be seen to do so in fairness to the general rate paying population.		N
2	Toby Heale			Only essential increases can be made in these economic conditions. While I support user pays as an overriding principle, it is necessary to ensure that the overall costs of doing business is not impacted by fees and costs associated with red tape. The need is to re-start business that have shut down. It is important for ECan to appreciate that it can only tax economic activity when it is producing spare revenue. If ECan bids up the entry costs investors will not make the commitments in times like these.	ECan is not thinking of itself as part of someone else's process but as an essential obstacle to the commencement or continuation of a business. In other words it thinks of itself as a prior change on business. The choice is not to enter into a business. Already one can hear 'its too complicated' and 'its so expensive' and 'it all takes too long' etc. Now is the time not to increase fees but to cut costs.		N
1	Ross Williamson			The statement 'while we have kept costs for resource consent applications to a minimum for several years, we have not reached the point where the charges for processing are not fully covering the costs and the deficit is being supported by ratepayers'. This goes against the policy of simplifying and streamlining of the Resource Management Act. Look at your processes first before lumbering consent applications, simplify and cut down on the red tape, bureaucracy raises its ugly head by bogging applications down in a mire of paper work and over the top regulations, common sense should prevail, don't raise fees rationalise your own processes.	It makes sense.		N
14	Dagmar Fikken		Y		As an owner of a small farm this will bring a disproportionate big burden on us. For a consent for a 400 cow farm we could have to pay the same costs as a 4000 cow corporate farm.		N

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13	Bowden Environmental	Y			I do not oppose the increase in charge-out rates or consent application deposit fees, but feel that the communication relating to this subject is misleading. The current fixed charges is made up of a fixed charge (deposit fee), plus (4) additional charge per application if the total costs exceed the fixed charges. Therefore, the current system is a user pays structure. If the current fixed charge is consistently having a shortfall then it would suggest that the initial fixed charge is set to low and does not account for the complexity of the standard application for some categories.		N
12	Alice StClair Stielow			I agree the costs of consents should be recovered from applicants however they should reflect the scale of what is being applied for. Large proposals should be paying a greater share. Smaller proposals should not have to make up the shortfall. The fees proposed appear to be an overall average which means that larger consent applications may not be paying their fair share.	It is a fairness issue and charges should reflect the required work.		N
3 & 11 (sub twice)	Thomas Gardner	Y			User pays seems a lot more equitable.		N
10	Olivia Graham	Y			Nil		N
9	David Richard Shaw			I strongly object to your tick boxes trying to drive options which result in an increase of charges irrespective of the question. ECan has increased its charges to Rate Payers in excess of inflation, and likely massively in excess taking the impacts of Covid-19 into effect once government wage subsidies come into effect. I cannot see how any government department can justify above inflation increases to charges to the community. In fact in line with the negative impact upon overall income government departments should be looking to reduce their costs in line with the impact upon overall incomes.	Because Ecan are out of touch with where real incomes are heading but consider that they can double dip by increasing rates above levels of inflation and then go for full cost recovery at charge out rates that are out of line with what industry could justify charging. ECan needs to look at where it can make cuts to reduce costs and that includes reducing staffing numbers. ECan should also be looking to reduce its contempt for the NZ judiciary as demonstrated in its behaviour in escalating legal cases to highest courts, incurring significant legal fees (increasing costs to rate payers) and resulting in the same outcomes – we need to see some accountability for these futile legal escalations.		Y
8	Jane Demeter	Y			Resource consenting should be funded by beneficiary i.e applicant except where the application is for community led projects where there is public benefit.		N
15	Grant Family	-	-	-	The proposal will erode your position further people have had enough partly because of your incompetence		-
20	Kim Neal	-	-	-	Environment Canterbury should not be putting its consent charges up. A lot of business's are struggling to stay afloat in this Covid 19 world. Over a number of years ECan has slowly turned into a bureaucratic empire needing more and money out of private enterprise to support its own existence. If ECan puts up its consent charges then it is just undoing all the hard work the Government is putting in place to cut costs so that business's and people can survive in these changing times.		-