

**Hearing of Submissions**

**Planning and Development Fees and Charges Review 2021**

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**Minutes of a hearing of submissions on the Planning and Development Fees and Charges Review 2021 held in the Council Chambers, 10 Gorge Road, Queenstown on Friday, 14 May 2021 at 9.00am, and resumption on Thursday 3 June at 9.30am.**

**Present:**

Councillor Calum MacLeod (Chair), Councillor Penny Clark and Councillor Glyn Lewers

**In attendance:**

Mr Tony Avery (General Manager, Planning and Development), Ms Rachel Beer (Planning Support Manager), Mr Gus Mair (Management Accountant), Ms Alice Balme (Solicitor) and Ms Jane Robertson (Senior Governance Advisor); five members of the public

**Commencement of the hearing: Election of Chairperson**

The Governance Advisor called the meeting to order and asked the Councillors to elect a Chairperson for the hearing.

It was moved (Councillor Clark/Councillor Lewers):

**"That Councillor MacLeod be appointed to chair the hearing."**

The motion was carried, and Councillor MacLeod duly took the chair.

**Declarations of conflicts of interest**

No conflicts were notified.

**Confirmation of Agenda**

**On the motion of Councillors Lewers and Clark it was resolved  
that the agenda be confirmed without addition or alteration.**

**Hearing Documents**

The Hearings Panel had before them the following documents:

- The Statement of Proposal including the following appendices:
  - Proposed amendments to the Building Consent Initial Fees and Other Charges
  - Proposed amendments to the Resource Consent and Engineering Fees and other Charges
- Submissions from the following:
  - Remarkables Park Ltd
  - Richard Kemp

- Terri Anderson
- Staysouth
- Willowridge Developments Ltd

In summary, the key feedback received in submissions related to:

- That Council should be refunding initial fees where these are not fully used for the processing of a resource consent;
- Whether it was too simplistic to use resource consent activity status (i.e. controlled, restricted discretionary etc) to categorise initial fees;
- Initial fees to be paid for visitor accommodation resource consents – proposed consolidation of these fees results in an increase of over 200%, which is prohibitive for many who seek to supplement incomes for their mortgages in the district;
- Fees for Queenstown Lakes District are higher than at other Councils;
- Whether there is justification for increasing the proportion of private funding through the fees and charges increase to meet Councils 80/20 model;
- External consultant fees for processing resource consents are inconsistent with Councils internal staff charge out rates; and
- The temporary decrease in applications due to COVID-19 is not sufficient justification to increase fees.

#### **Reporting Officer's comment**

Ms Beer presented the main points contained in the Statement of Proposal which detailed the reasons for the proposed increase. She advised that an increase was necessary in order to meet the funding policy of an 80/20 private/public split. If no fees increase was approved, rates would have to fund the shortfall. This was contrary to the service's philosophy which had a user-pays approach.

Mr Mair advised that Planning and Development had not met the funding policy for a number of years. Over this time there had been increased costs and overheads allocated from support services had also risen. Fees therefore needed to increase to bring the funding policy into line, although it would still take about three years to achieve this.

#### **Hearing of Submissions**

##### **1. Brian Fitzpatrick (on behalf of Remarkables Park Ltd – 'RPL')**

Mr Fitzpatrick stated that RPL was not opposed to increasing fees but was concerned about the proposal that fees would not be refundable. This was unfair and not what the law stated. By way of example, he cited that if an applicant paid for a consent hearing and it transpired that no hearing was needed, the applicant should reasonably

expect to get some of that money back. Further, there was nothing wrong with a higher deposit fee, but when set at a median, half of the charges would be below that fee. The sole purpose of the RMA was to allow a local authority to recover ‘reasonable costs’ incurred, but not what the Council chooses to estimate is the ‘reasonable cost’.

The simplest consent to process was an application for straightforward earthworks and it was very expensive to set the base charge at \$3900 because not every earthworks application would cost that much. Further, the Planner’s work may be unnecessarily expanded to use up all the fee.

Mr Fitzpatrick was critical that a purported benefit of the new charges was a reduced number of inquiries. In his view, people should be allowed to talk about what they were being charged and it was important for staff to have that discussion and learn from the experience. He also considered that asserting the new charges were only being borne by the construction industry was unfortunate wording because the charges ultimately affected the Council’s ratepayers.

The Chair suggested that instead of referring to the ‘construction industry’, the word ‘applicants’ could be used.

2. Richard Kemp

Mr Kemp advised that he worked as a Town Planner and was a former QLDC planner. His work involved mainly helping “mum and dad” applicants apply for resource consents and he generally worked on lower scale developments. His comments focused on the following issues:

- a. Non-refundable proposal
- b. Overall status to determine deposits and size of deposits

a. Proposal not to issue refunds

Mr Kemp was aware of occurrences where applicants had applied for resource consent but had subsequently learned that they did not need to. Applications in error of this type under this proposal would be a big waste of money because of the ‘no refunds’ stance, even if there was a genuine error. He also considered that any unused part of the initial deposit should be refunded.

b. Using activity status as the basis of determining deposit

This covered the whole range from controlled activities to non-complying but in his view it did not actually take more time to process a higher status consent than a lower one. Another complication was that the status was often not known until an application was lodged and had been reviewed. Under this approach, there was an incentive to prepare applications which missed rules so that a lower activity status was determined.

The charges proposed were a lot more than a 15% increase and the \$3900 charge essentially became the baseline and represented up to a 300% increase from some existing charges. If the new charges were adopted, he considered that it would

become harder to get actual accountability about time spent, especially as there was no competition in the market. Further, if the threshold was raised it then became harder to appeal against an unreasonable fee.

He was particularly concerned about the proposed consolidation of all visitor accommodation resource consent application fees. In his view, short-term accommodation consents were probably the simplest application to process but under this proposal, a small domestic operation was not distinguished from a 300-room hotel. The result was simpler consents subsidising higher end applications.

*The hearing of submissions adjourned at 9.30am and the members of the public left the meeting. The meeting reconvened at 9.35am. Ms Balme joined the meeting at this point.*

### **Deliberations**

Ms Balme circulated an analysis of the different points made by all submitters. This included a Council Officer response to the submission points raised.

#### Non-refundability

Ms Balme explained the legality of adopting a non-refund policy. The RMA allowed a territorial authority to set reasonable charges but the Local Government Act stated that a council could not take more money than was needed to process an application. Accordingly, the Council could not have a blanket non-refundability policy.

Members noted the importance of setting the initial fee at a level that would not result in numerous refunds or lots of additional invoices. There was agreement that the stance on refunds was not acceptable and officers were asked for further information on the ability to refund fees on resource consent applications where the actual processing costs are less than the initial fee paid.

#### Median fee basis and activity types

The panel expressed general support for the percentage increases but asked staff to investigate further the proposed fees schedule.

The panel did not wholly agree with the assertion that the activity status only became evident through application process but they accepted the view that some of the increases were substantial and asked staff to examine these again. The Hearings Panel requested further information from Council officers on whether the proposed initial fees for the different resource consent types were set at the right amount.

*The meeting adjourned at 10.05am on Friday, 14 May and resumed at 9.30am on Thursday, 3 June 2021.*

### **Resumption**

A report prepared by Fiona Blight (Manager, Resource Consents) was circulated prior to the resumption, which reported back on the information requested by the Hearings Panel on 14 May 2021, being:

- a. The ability to refund fees on resource consent applications where the actual processing costs are less than the initial fee paid; and
  - b. Whether the proposed initial fees for discretionary and non-complying resource consents were set at the right amount.

With regard to a. the report confirmed that the Council's finance system is able to capture such applications and refund the fees to applicants where these are not greater than the initial fee paid. A threshold of \$100 was suggested before refunds or additional invoices should be required for resource consent processing and this was agreed to.

It was agreed that the existing approach to no refunds for building consents applications should be retained given that the fees were set against the projected build costs which should reflect the level of work required and that the fees covered the entire approval process from processing, through multiple inspections and eventual Code Compliance Certificate issuing.

In response to b. the report confirmed that Council officers in relooking at the data used to establish the proposed initial fees, identified that data for notified consents (limited and publicly), had been included, resulting in higher median fees for consent categories. Council officers removed the cost of notified consents from the data and also identified that non-complying and discretionary activities could be separated out to provide a further differentiation to reflect the different costs associated with those types of resource consents.

These changes resulted in a new lower median for a number of consent categories. Council officers applied these new medians to then establish an initial fee that balanced reducing additional invoicing on applications against not significantly increasing the amount of applications that will then require a refund. The changes were agreed to by the Panel.

A number of other changes were agreed to by the Panel to better reflect the actual costs and to remove a number of activity types which were covered by the different types of resource consent categories. The Panel agreed to the following changes which are included in the amended fees schedule for Resource Consents and Engineering fees and other charges:

- Removal of all references on the resource consents schedule to no refunds
  - Controlled Activity \$1,550 (was \$1,540)
  - Restricted Discretionary Activity \$2,000 (was \$3,000)
  - Discretionary Activity \$2,200 (was \$3,900)
  - Non-complying Activity \$3,000 (was \$3,900)

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|---|---------|---------------|
| • s125 Extension of time                              | \$750   | (was \$925)   |
| • S127 Variation of resource consent                  | \$1,800 | (was \$2,500) |
| • Establish residential building platform - deleted   |         | (was \$4,000) |
| • Visitor accommodation controlled activity - deleted |         | (was \$1,400) |
| • Visitor accommodation other – deleted               |         | (was \$3,000) |

The panel agreed that no changes were required to the Building Consent Initial Fees and Other Charges schedule as notified in the Statement of Proposal.

The Panel considered the key submission points made by the various submitters and after discussion decided as follows:

<b>Key Submission Point</b>	<b>How Addressed</b>
Refunding initial fees where these are not fully used for the processing of a resource consent	Agreed – refunds are to be provided
Too simplistic to use resource consent activity status (i.e. controlled, restricted discretionary etc) to categorise initial fees	Noted – but retained with modifications to the initial fee amounts
Initial fees to be paid for visitor accommodation resource consents	Agreed – removed these categories
Fees for Queenstown Lakes District are higher than at other Councils	Noted – but not changed. Analysis shows fees in line with other Councils that deal with the same more complex urban and rural issues
Justification for increasing the proportion of private funding through the fees and charges increase to meet Councils 80/20 model	Noted – but no change to Council funding policy is proposed through this process
External consultant fees for processing resource consents are inconsistent with Councils internal staff charge out rates	Noted – but not changed, as Council planners and external planners are charged out at the same hourly rates to applicants. All other consultant experts used by Council are charged at the hourly rates agreed through the procurement process
Temporary decrease in applications due to COVID-19 is not sufficient justification to increase fees	Noted – but this was never a justification put forward by Council for the fees and charges increases

**On the motion of Councillor Lewers and Councillor Clark it was resolved that the Hearings Panel:**

- 1. Note the contents of this report and make final determinations on the two Planning and Development proposed fees and charges schedules;**
- 2. Recommend to Council that the proposed 10% to 15% increase in hourly rates as set out in the fees and charges schedules used for planning, building consents, resource management engineering and other matters [as attached in Appendix A and B to this report] is approved at its meeting on 30 June 2021 for adoption from 1 July 2021; and**
- 3. Recommend to Council that the proposed fees and charges schedules used for planning, building consents, resource management engineering and other matters [as attached as Appendix A and B to this report, and modified in accordance with the discussion at the reconvened hearing] is approved at its meeting on 30 June 2021 for adoption from 1 July 2021.**

*The meeting concluded at 10.15am.*