

DECEMBER 2023

# Welcome to our Summer Edition Newsletter

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*This Resource Consent Team Newsletter provides information to assist those in the industry and their clients with respect to resource consent matters. It is not an exhaustive explanation of the matters that may be covered but a starting point for better understanding. If you seek specific information or advice you should consult a professional for bespoke guidance for your situation, or feel free to contact Council via the Duty Planning service on Council's website.*

## Planning ahead for the Christmas - New Year break

If you are planning to lodge applications over the next couple of months, please factor in the following dates when estimating processing timeframes: Council offices will be closed on Friday 22 December 2023 at Noon. Council offices will re-open on Wednesday 3 January 2024 at 8.00 am. Resource Management Act 1991 (RMA) non-working days are from 20 December 2023 until 10 January 2024 which means that from end of day Tuesday 19 December 2023 until the end of the day on Wednesday 10 January 2023 the RMA clock will be stopped. RMA timeframes are excluded during this period. It will be business as usual from Thursday 11 January 2024 at 8.00 am. Council officers will however continue processing applications during this period, if available.



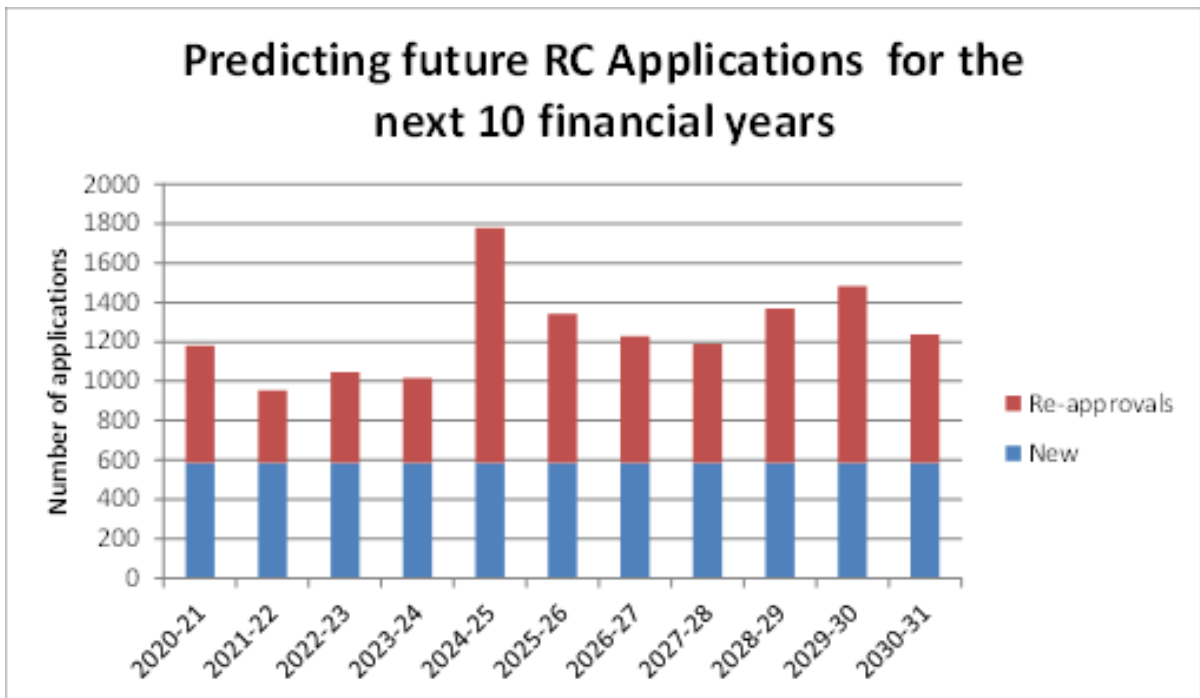
*Wishing you all a very Merry Christmas and  
a Happy New Year*

## Predicting future resource consent applications

The Resource Consent Team workflow appears to be slowing slightly this year. However, for the most part the applications are still coming in at similar levels before the pandemic. In order to predict future workflow and staffing requirements a review has been undertaken of the number of expiring consents by consent type and financial year for the next ten years and the number of new consents and re-approvals the Resource Consent Team has processed over the last five years by consent type and financial year.

Under the Resource Management Act 1991 most regional consents specify a term with an expiry date. The term can be up to 35 years. If no term is specified in a decision the consent will expire after five years. This is not the case with Land use and Subdivision applications. The majority of these types of applications are enduring with no expiry date.

Based on analysis of the data from the past five years the Resource Consent Team can make the assumption that the majority of expiring resource consents will be renewed by the consent holder. Therefore the Team can predict that there will be a generally steady stream of these re-applications for the next 10 financial years with some outliers in particular consent types in some years (for example Marine Farms in 2024). Over the last five financial years the lowest number of new applications received annually was 584. By using this number as a base and the number of consents that will be expiring annually as the variable the Team can project the number of resource consent applications that will be received annually for the next ten financial years.



## How much will my resource consent application cost?

When asked this question the answer could be “how long is a piece of string?” In the last financial year, the Council processed 881 applications for resource consent. The charges for processing these applications varied from a minimum of \$335.00 to a maximum of \$67,354.77. Predictably the costliest applications to process were publicly notified applications which went to a hearing. There were four of these applications and the cost to process them went from a minimum of \$18,598.46 to a maximum of \$44,778.56. The median charge for processing a publicly notified application that went to a hearing was \$24,643.56

The second costliest category of applications processed was the limited notified applications that went to a hearing. There were only seven of these applications processed, and they went from a minimum of \$8,806.35 to \$67,354.77 (the highest cost reflects a complex application and hearing despite being notified on a limited basis). The median charge for processing a limited notified application that went to a hearing was \$28,750.82.

Avoiding a hearing significantly reduces the cost of processing a limited or publicly notified application. There were 72 limited notified applications that did not go to a hearing and the cost of processing these applications varied from a minimum of \$831.00 to a maximum of \$11,405.00. The median cost of processing a limited notified, no hearing application was \$2,308.50. There were 30 publicly notified applications that did not go to a hearing. The minimum cost of processing this type of application was \$1,555.00 and the maximum was \$5,976.00. The median cost of processing a publicly notified application that did not go to a hearing was \$2,580.60

Most of the applications processed by the RC Team are not notified and do not go to a hearing. Out of the 881 processed 645 fell into this category. The cost to process a non-notified, no hearing application varied from \$335.00 to \$10,087.00 (the highest cost reflects a complex application despite not requiring notification or hearing). The median charge for processing a non-notified, no hearing application was \$1,745.07.

## Transfer of consents

If you sell your land or business, you may need to transfer your resource consent to the new owner, so they become the new consent holder. In the absence of transferring the consent the original consent holder remains responsible for compliance with the conditions, any potential enforcement action, and all associated consent charges.

Most land use and subdivision consents are attached to the land and transfer automatically to the new owner when the land is sold (s134 RMA). Water permits, discharge permits, and coastal permits are linked to a person or legal entity and do not automatically transfer (s135-137 RMA). Land use consents in relation to certain uses of the beds of lakes and rivers also do not automatically transfer (s134 and s13 RMA) and need to be transferred.

If an activity needs to be transferred it is the responsibility of the two parties to arrange the transfer. Both parties are required to sign the transfer application form and there is a fee. The fee for transferring a water permit or marine farm is \$411.00. The fee for transferring other coastal permits, discharges and land use is \$133.00. There are specific forms on the Council website for the transfer of water permits, coastal permits, discharge permits and land use (river or lakebed activity).



## Erosion and sediment control guidelines

If you are working on a construction site of any kind, it's important for you to have suitable erosion and sediment controls in place before you start earthworks. If the works are permitted through a resource consent, these controls will be specified in the erosion and sediment control plan that was agreed upon when the consent was granted. If works are being conducted as a permitted activity, then sediment controls are still required. The controls are outlined in the MDC Small Site Erosion and Sediment Control Guidelines.

This guide aims to provide simple, effective, and realistic advice on how to adopt control methods, to ensure the best site protection. Effective onsite management of soil erosion and water can:

- reduce average construction time,
- reduce clean-up costs,
- enable all-weather site access,
- improve wet weather working conditions,
- improve drainage and reduce site wetness,
- result in fewer problems with mud and dust,
- reduced stockpile losses,
- create a better-looking and more marketable sites,
- avoid public complaints and/or
- avoid Council enforcement action.

The MDC Erosion and Sediment Control Guidelines can be accessed here:

[https://www.marlborough.govt.nz/repository/libraries/id:2ifzri1o01cxbymxkvwz/hierarchy/documents/services/rc-applying-for-a-rc-supporting-information-list/Small\\_Site\\_Erosion\\_and\\_Sediment\\_Control\\_Guide.pdf](https://www.marlborough.govt.nz/repository/libraries/id:2ifzri1o01cxbymxkvwz/hierarchy/documents/services/rc-applying-for-a-rc-supporting-information-list/Small_Site_Erosion_and_Sediment_Control_Guide.pdf)

or in the supplementary information area in the Resource Consent section on the Council website.



## Applicant details for resource consent applications (Part 2)

Following on from our article in the Winter 2023 newsletter which reminded applicants and agents making an application for resource consent to provide full legal names of applicants and their address for service. Council also annually receives several applications in the name of family trusts. If the family trust is not a registered trust it is not a legal entity and therefore cannot apply for or hold a resource consent. In these cases, the Council requires the full names of all trustees. The reason for this requirement is compliance with section 88 (1) of the RMA which enables the Council to identify with certainty consent holder(s) who are ultimately responsible for compliance and any associated costs.

A consent can be applied for and issued to the full legal names of the trustees for the named family trust. For example, the applicant/consent holder could be Peter John Jones, David Peter Jones, and Helen Barbara Jones for the Jones Family Trust. The consent could not be applied for or issued to the Jones Family Trust.

## Consent order update

A couple of weeks ago Council received some consent orders from the Environment Court regarding appeals to the Proposed Marlborough Environment Plan. These consent orders have immediate effect and relate to objectives, policies and rules for water allocation, damming and diversion of water, and works within riverbeds. Anyone applying for these types of consents should look at the updated appeals version of the Proposed Plan on Council's website to see if their proposal is affected.



**Next Issue out 1 March 2024**