



Nelson City Council

te kaunihera o whakatū

STATEMENT OF PROPOSAL

**FENCING OF SWIMMING POOLS ACT 1987
FEES AND CHARGES**

commencing 1 July 2016

1. Introduction

- 1.1 The Fencing of Swimming Pools Act 1987 (the Act) is silent on the recovery of fees for inspection monitoring. As such the Local Government Act 2002 Section 150(3)(b) is used to set fees to cover reasonable recovery of costs incurred in undertaking monitoring inspections on a three yearly cycle. The territorial Authority is looking to make changes to the current fixed fee of \$210.00 as such public consultation is required on this proposed change.
- 1.2 Under the Act fencing to swimming pools and spa pools has to meet compliance with the provisions of Schedule one of the Act. The Council currently has fees set to recover costs of the recording and monitoring the fencing of swimming pools. It is proposed that these fees be reduced and the structure for charging changed to benefit those who now maintain compliant pools.

Functions of Territorial authorities under the Fencing of Swimming Pools Act 1987

- 1.3 The provisions in the Act require Council to perform the following functions under the Act:
- **Monitoring fencing to all swimming pools** - Undertake compliance and monitoring activities across the district.

Territorial Authority's ability to set fees

- 1.4 Section 150(1) of the Local Government Act 2002 provides that a local authority may prescribe fees or charges payable for a certificate, authority, approval, permit, or consent from, or inspection undertaken. Additionally under Section 150 (3)(b) Fees provided for in subsection (1) must be prescribed either - (a) in bylaws; or (b) following consultation in a manner that gives effect to the requirements of section 82.
- 1.5 As such this enables the Council to set the fees noting the fees prescribed under subsection (1) must not provide for the local authority to recover more than the reasonable costs incurred by the local authority for the matter for which the fee is charged

2. The Approach to Charges

- 2.1 Council's proposed charges (see the Draft Schedule), includes a Standard Charge and any other time spent by the Council to work with non compliant pool owners. The cost of the monitoring is based on:
- a) The time spent by Council staff to organise and undertake the inspection to determine compliance of the swimming pool fencing ;
 - b) Any administrative costs
 - c) Where non compliance is found additional time is then charged to a maximum of \$500.00
- 2.2 When monitoring has been completed, where non compliance has been found, any additional time charges are calculated for this and added to the standard monitoring fee invoice for payment.

3. The Proposal

- 3.1 To create a standard charge for the basic inspection and only charge additional costs where non compliance is observed. Additional charges would be the staff hourly charge out rate of \$125. This meets the on-going costs of providing the service. The rate is also comparable to other hourly rates within the Council and with rates for adjoining councils.
- 3.2 The mix of standard monitoring charge and a maximum hourly rate enables actual costs to be recovered for situations where owners have not maintained fencing to pools. The overall cost for the majority of owners is anticipated to be less than current charges because the workload will be less going forward.

4. Reasons

- 4.1 The cost associated with monitoring involves maintaining the NCC records of pools, notifying owners of inspection and undertaking the inspection. Much of this information is now in place, as a result of the initial round of monitoring, which will be completed in June 2016. The proposed charge and charging structure is based on the average time taken to monitor the pool fencing and preparatory work around this, based on the expectation most pools which have met the level of compliance required by the initial cycle of monitoring, have maintained this level of compliance.

5. Options

- 5.1 Council has reviewed the options available under the Local Government Act 2002 as follows:

Monitoring

<i>Options</i>	<i>Advantages</i>	<i>Disadvantages</i>
Charges are at an hourly rate	Fairly allocates costs according to the complexity of the application	Applicants do not know the full costs at the beginning of the process
Charges are at a fixed rate	Full costs are known in advance for applicants	Straight forward applications may subsidise the actual costs of more complex applications
A standard charge is levied but in situations of non compliance additional charges can be levied to cover additional time costs	Costs are known by owners if their pools fencing is maintained, but in the event non compliance is found the user pays for the additional cost	Some risk of not knowing full cost but ensures less likelihood of compliant owners subsidising non compliant owners.

Standard Charge and Hourly rate

<i>Options</i>	<i>Advantages</i>	<i>Disadvantages</i>
Standard Charge \$100	Best estimate to meet actual costs of the service,	
Hourly rate at \$125	Inspection rate per hour consistent with other Council inspection rates and adjoining Councils' hourly rates	
Higher hourly rate	Ensures ratepayers do not subsidise the costs of providing the service	Could over-recover the actual costs and be inconsistent with adjoining Councils' rates
Lower hourly rate	Less cost for applicants	May not recover the actual costs of the service

5.2 The level of charges will be reviewed annually.

6. Special Consultative Procedure

In adopting the Statement of Proposal for public consultation, including a draft declaration indicating the proposed option, the Council is required to consider whether the Statement of Proposal meets the requirements of section 83 of the Local Government Act 2002. A statement of proposal must include:

- A statement of the reasons for the proposal; and
- An analysis of the reasonably practicable options, including the proposal; and
- Any other information that the local authority identifies as relevant.

The Council considers the Statement of Proposal meets these requirements.

7. Submissions

7.1 Any interested person or body is welcome to make submissions about any aspect of the Council's Fencing of Swimming Pools 1987 Fees and Charges.

7.2 Council in making its decision will be taking account of all submissions made.

Submissions are to be made in writing and forwarded to:

Fencing of Swimming Pools Act 1987 Fees and Charges
Nelson City Council
PO Box 645
Nelson 7040

Or emailed to submissions@ncc.govt.nz

Submissions must be received no later than midday on Friday 29 April 2016.

Nelson City Council Statement and Summary of Proposal
Fencing of Swimming Pools Act 1987 Fees and Charges

Any person who wishes to speak to the Council in support of their submission will be given the opportunity at a hearing which will occur in May 2016, the specific date to be advised to submitters stating they wish to be heard.

Copies of the Statement of Proposal, including the complete Fencing of Swimming pools Act 1987 Draft Fees and Charges are available free of charge from Civic House or on request.

All enquiries should be directed to Martin Brown on 545 8303 or email martin.brown@ncc.govt.nz

APPENDIX ONE



Draft Fees and Charges

**Under the Local Government Act 2002
for the Fencing of Swimming Pools Act
1987**

commencing 1 July 2016

Nelson City Council Statement and Summary of Proposal
Fencing of Swimming Pools Act 1987 Fees and Charges

Fencing of Swimming Pools Act 1987	Charge (includes GST)
Monitoring inspection Standard Charge	\$100
Charges levied for non compliance under the Fencing of Swimming Pools Act 1987-	\$125 hourly rate capped at \$500.00 (4 hours)

Note – Time charged per hour will be measured to the nearest 15 minute interval.



Summary of Statement of Proposal

DRAFT FENCING OF SWIMMING POOLS ACT 1987 FEES AND CHARGES

This statement is made for the purposes of section 83 of the Local Government Act 2002.

The Fencing of Swimming Pools Act 1987 (the Act) is silent on the recovery of fees for inspection monitoring and as such the convention of the Local Government Act 2002 Section 150(3)(b) is used to set fees to cover reasonable recovery of costs incurred in undertaking monitoring inspections on a three yearly cycle. The territorial Authority is looking to make changes to the current fixed fee of \$210.00 as such requires public consultation on this proposed change.

Under the Act fencing to swimming pools and spa pools has to meet compliance with the provisions of Schedule one of the Act. The Council currently has fees set to recover costs of the recording and monitoring the fencing of swimming pools. It is proposed that these fees be reduced and the structure for charging changed to benefit those who now maintain compliant pools.

Council's proposed charges (see the Draft Schedule), includes a Standard Charge and any other time spent by the Council to work with non compliant pool owners. The cost of the monitoring is based on:

- d) The time spent by Council staff to organise and undertake the inspection to determine compliance of the swimming pool fencing;
- e) Any administrative costs
- f) Where non compliance is found additional time is then charged to a maximum of \$500.00

When monitoring has been completed, where non compliance has been found, any additional time charges are calculated for this and added to the standard monitoring fee invoice for payment.

The Council welcomes feedback on the fees and charges. Council, in making its decision, will be taking account of all submissions made.

Copies of the Statement of Proposal which includes a more detailed assessment of the proposal are available free of charge from Civic House or on request.

Submissions

Any interested person or body is welcome to make submissions about any aspect of the Council's Draft Fencing of Swimming Pools Act 1987 Fees and Charges.

Submissions are to be made in writing and forwarded to:

Fencing of Swimming Pools Act 1987 Fees and Charges
Nelson City Council
PO Box 645
Nelson 7040

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Draft Schedule



Draft Fees and Charges
under the Local Government Act 2002
for the Fencing of Swimming Pools Act
1987

commencing 1 July 2016

Nelson City Council Statement and Summary of Proposal
Fencing of Swimming Pools Act 1987 Fees and Charges

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