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# Discussion Document: Coastal Occupation Charges

*October 2005*

*Working with our communities for a better environment*



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## A bit of background on Coastal Occupation Charges



*Kauri Point jetty*

Most of the coastal marine area (beaches, seabed and sea) is public open space, with an expectation and right by the public to freely use and access most of it. These general rights of public access and navigation have been confirmed in law by the Foreshore and Seabed Act 2004, while the maintenance and enhancement of public access is a matter of national importance under the Resource Management Act 1991.

Some activities, like marinas, marine farms, boat sheds, moorings and wharves have rights to privately use parts of the coastal marine area – sometimes exclusively. This is called occupying or occupation. These rights are a form of property right over publicly owned land.

Each occupation causes some sort of loss to the public. It could be a loss in visual character, it might limit access, be a navigation hazard or is simply the loss of the ability to use the space for another activity. The level of loss depends on the type of occupation and the degree of exclusivity that the owner has.

**The question that Environment Bay of Plenty is facing is:** If people occupy public space in the coastal marine area then should those people pay compensation to the community for occupying that space, as they would have to do on land?

Most people and businesses who (exclusively) use parts of the coastal marine area don't pay anything for the use of that area, except for some administrative fees that are common to all consents whether they are land or coastal based.

Under the Resource Management Act, all regional councils must decide whether or not to introduce coastal occupation charges, and once a decision is made change their Regional Coastal Plan to show their decision.

Regional Coastal Plans set out how that region's coastal marine area is managed. Regional councils are required by law to have one.

The Resource Management Act says that when a regional council considers any charging system, the public must be involved in the process. Any coastal

occupation charging system must be fair, equitable and transparent.

### **What is occupation?**

Occupation is the right to occupy foreshore and seabed to the exclusion of others. The rights held by an occupier are similar to someone on land who holds a lease or license that gives them rights to use that land.

### **What is a coastal occupation charge?**

Coastal occupation charges are like a "rental" for right to use space – they are not rates or taxes. They are a charge for occupying publicly owned space so the public (through the regional council) is compensated for the use of the land.

The charge only applies to land of the Crown or land vested in the regional council, that which is held for the public. Privately owned land within the coastal marine area is not subject to the occupation charging provisions.

The law says that the regional council must, on behalf of the public, spend any revenue from coastal occupation charges on the sustainable management of the coastal marine area.

### **Is it new?**

The proposed form of coastal occupation charges is new. A predecessor to the regional council, the Harbour Board, charged for foreshore leases and licenses for more than 30 years. In 1991 the regional council took over many of the functions of the harbour board under the Resource Management Act. The legislation required that any money collected had to be forwarded to the Crown. Regional councils refused to be a collection agent for the Crown and in 1997 the legislation was changed

to allow the revenue to be spent in, and for the good of, the region it was collected in.

Many of the older structures in the region were subject to rentals before 1991.

### **Why bring in these charges now?**

Because of the Resource Management Act. It says regional councils must state in the first coastal plan change they make after 2007, whether or not they are introducing a charging regime for the region's coastal marine area. A full plan change process, including consultation with the public, must be done whether they decide to introduce the charges or not. This process is subject to submissions and appeals.

### **Who will be charged?**

Anyone who occupies part of the coastal marine area and causes some level of public exclusion or loss. Generally this means people who hold a coastal permit to occupy, or are permitted by the Regional Coastal Environment Plan to occupy. This would probably include marinas, marine farms, wharves, jetties, moorings, boat sheds and other activities/structures that 'permanently' use space.

People using the beach or sea for recreational activities like swimming or boating do not "occupy" so will not be charged.

### **Are there exceptions?**

A complete waiver is proposed for facilities that are provided by public organisations for solely public use. These include district council structures like boat ramps and jetties that are freely available to the public. Waivers or reductions are likely for other occupiers who provide a level of public use. Adjustments to the base charge could reflect the level of public

exclusion. Circumstances for waiver or reductions may include:

- Temporary or seasonal occupations.
- If a coastal permit has not been given effect to or an occupation ceases for a period of time.
- The occupation provides the only access to private property.
- Essential safety services such as Coastguards or surf lifesavers.
- Ecological or biodiversity enhancement as the only reason for occupation.

Environment Bay of Plenty wants to know which activities you think should have charges reduced or waived.

### **How will the charge be calculated?**

When you rent land, you generally pay a percentage of the value of the land as an annual rental. Coastal occupation charges will be calculated in a similar way.

For moorings and some marine farms there is enough market information (from sales and annual rents) for professional valuers to obtain a

realistic market valuation. An occupation charge will be set based on a standard percentage of that value, in the same way that rent is set on a commercial or industrial property.

For other structures there is little market evidence on which to base a charge. The next best approach is to use the adjoining land value and make the appropriate adjustment for the sea-based nature of the occupation. What this means is that the use of the land in the sea is generally less flexible than the dry land that is next to it – so some allowance needs to be made for this. Environment Bay of Plenty considers a 40% reduction to be appropriate based on evidence from around New Zealand and overseas.

### **What is the rental rate?**

The rental rate proposed is 5.5 percent per year. This is in line with standard commercial practice. Generally the rental rate will depend on how often the charges will be reviewed. In this case Environment Bay of Plenty proposes to review the level of the charges every 5 years.



*Mount Maunganui*



*Matakana jetty*

**If the charge is based on area occupied, how will it account for the vertical size of the structure?**

Not all structures have the same exclusionary effects – some are below the ground and cause virtually no public loss, others can be stepped or climbed over, while others totally exclude the public from the land, water and air space. Environment Bay of Plenty will reduce the charge for structures that have less of a physical exclusion effect.

**What if a structure benefits the public?**

Two identical structures can have completely different effects on public access depending on whether the owner uses the structure exclusively or allows the public to use the structure. Some structures are provided entirely for public use, for example district council launching ramps, while others have locked gates, completely preventing access or limiting it to certain people. Reductions are proposed for structures that provide for public access and no charge should be expected for those that are provided entirely for public benefit.

**What about the more complex activities that don't easily suit a charging formula?**

Environment Bay of Plenty realises that some of the large activities in the coastal marine area are more complex and it is appropriate to determine the level of exclusion reductions on a case-by-case basis.



*Locals gathering shellfish in Waiootahi.*

## What are some examples of the level of charges?

If occupation charges are set as proposed, the following charges would result:

<b>Jetty:</b> Tauranga residential area 20 m <sup>2</sup> (private use only).	\$462
<b>Boat ramp:</b> 20 m <sup>2</sup> Omokoroa (private use only).	\$308
<b>Boat shed:</b> Residential area Tauranga 20 m <sup>2</sup> (private use only).	\$616
<b>Moorings:</b> Depends on location	Range \$150 (Opotiki) – \$400 (adjacent to Tauranga city)
<b>Jetty:</b> Tauranga City waterfront 20 m <sup>2</sup> . (public access allowed).	\$660
<b>Boat ramp:</b> Ohiwa 20 m <sup>2</sup> (public access allowed).	\$77
<b>Subsurface cable:</b> Tauranga Harbour 8 km by 20 cm	\$160

### What other charges currently exist?

Like any other activities that require resource consents, Environment Bay of Plenty collect administrative fees for processing an application and compliance monitoring fees. On land, consent holders pay these fees in addition to the rental they pay for the use of the land (if they do not own it).

### From when will the charges apply if there is a charging regime?

Coastal occupation charges can only be collected once the Coastal Plan Change is operative. This means when all submissions and any appeals to the Environment Court on occupation charges have been resolved.

A decision on coastal occupation charging is likely to take three years from the beginning of the formal process to conclude the change to the plan.

### Who will collect coastal occupation charges?

Environment Bay of Plenty will collect the charges; probably at the same time as the usual coastal permit compliance charge.

### What decisions has Environment Bay of Plenty made on coastal occupation charges so far?

So far the Council has decided to proceed with a coastal occupation charge regime, and they want feedback on this discussion document, in particular on the community's views on waivers and expenditure.

### How much does Environment Bay of Plenty expect to collect?

Although it is early days in the process, Environment Bay of Plenty considers that \$1 million per annum is a reasonable amount to collect from all current occupiers of the region's coastal marine area. This may increase over time with increases in use and the number of coastal permits.

### Expenditure

Environment Bay of Plenty spends around \$2 million on coastal management each year. This is spread between the following Long Term Council Community Plan (LTCCP) activities:

- Navigation and Safety (navigation markers, brochures, patrols, 24 hour callout service etc).
- Sustainable Coastal Management
  - » Monitoring and reporting on the State of the Environment (water quality monitoring, ecological monitoring and other environmental investigations)
  - » Regulation, Regional Planning and Integration Strategies (policy development, implementation and monitoring to ensure appropriate management).
- Sustainable Land Management
  - » Coast and Harbour care (helping community groups to take care of the environment).

All these activities are (land-based) ratepayer funded at the moment. Revenue from Coastal Occupation Charges can either be used to offset the expenditure (and reduce the amount that the ratepayer supports in the coastal marine area), or the revenue used to fund extra activities. Environment Bay of Plenty expects coastal expenditure will increase, as there is increasing pressure on our coastal resources for both recreation and commercial uses. By 2009 it is estimated that expenditure will be in the order of \$2.2 million.

Total income from occupation charges is likely to vary over time and therefore the way in which the money is spent needs to be flexible and prioritised. Council's initial views are that the following should be funded, in this order of priority:

	Indicative 2009 (assuming \$1 M income)
The LTCCP activity of Navigation and Safety should be funded up to 50% of its total expenditure from coastal occupation charges, with 50% funding from the general rate.	\$400,000
The LTCCP activity of Sustainable Coastal Management should be funded up to 40% from coastal occupation charges.	\$400,000
A portion of the revenue should go to environmental enhancement initiatives. This could include Council, other agencies or community initiatives.	\$100,000
A portion of the revenue should go to the LTCCP activity of Sustainable Land Management.	\$100,000

This allocation would see a reduction in the amount the general ratepayer pays for Environment Bay of Plenty's coastal services as well as additional enhancement activities in the coastal marine area.

Environment Bay of Plenty wants to know how you think any revenue from coastal occupation charges should be spent. There will be other opportunities to give your view on Council expenditure during Annual Plan and Long-Term Council Community Plan (LTCCP) processes.

#### **Where to from here?**

Following public feedback, the Council will prepare a draft plan change for further consultation taking into account the comments it receives. Further consultation on the draft will be undertaken prior to council publicly notifying a proposed plan change. At that stage the public will have the opportunity to make formal submissions on the proposal.

To have your say on Coastal Occupation Charges, complete the Consultation Questionnaire by 18 November 2005.  
Questionnaire available online at [www.envbop.govt.nz](http://www.envbop.govt.nz)  
You can email, fax or freepost this to Environment Bay of Plenty.

Email: [info@envbop.govt.nz](mailto:info@envbop.govt.nz)  
Facsimile: 0800 ENV FAX (368 329)





# Have your say on Coastal Occupation Charges

Consultation questionnaire

## General

1 Do you think it is fair and reasonable to have coastal occupation charges?

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2 Why or why not?

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3 Do you agree with the way Environment Bay of Plenty is proposing to set the charge?

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4 If not, what alternative ways can you suggest?

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5 Should moorings have a flat fee or should there be some recognition for different vessel lengths?

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## Waivers/reductions

1 Are there any occupations you consider should have charges waived or reduced?

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2 What are they and why?

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## Revenue

1 If coastal occupation charges are established do you think:

- additional expenditure should be made on the sustainable management of the coastal marine area
- expenditure should replace existing ratepayer funding
- there should be some new expenditure and some replacement

2 Working within the legal constraint of having to spend the money "promoting the sustainable management of the coastal marine area", what do you think are the highest priorities for spending?

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3 If you are a consent holder who would likely be paying a coastal occupation charge, where would you prefer the money to be spent?

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Return your completed questionnaire by fax, or fold to envelope size and freepost to us at Environment Bay of Plenty by **18 November 2005**. You can also download this questionnaire from our website at [www.envbop.govt.nz](http://www.envbop.govt.nz) and return by email.

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