

Chairperson and Committee Members
OPERATIONS AND FINANCE COMMITTEE

1 DECEMBER 2016

Meeting Status: **Public**

Purpose of Report: For Decision

**SALE AND SUPPLY OF ALCOHOL (FEES) REGULATIONS
2013 - REDUCTION OF FEE CATEGORIES FOR CERTAIN
LICENSED PREMISES AND SPECIAL LICENCES**

PURPOSE OF REPORT

- 1 This report recommends this Committee considers reducing fees payable for certain licensed premises or special licences.

DELEGATION

- 2 This committee has authority to make these decisions under Section B.2 of the Governance Structure (*all regulatory and planning matters from an operational perspective*).

BACKGROUND

- 3 As a result of a review conducted by Ministry of Justice in relation to the Sale and Supply of Alcohol Act 1989 a new fee structure was introduced in The Sale and Supply of Alcohol (Fees) Regulations 2013 (the Regulations). In part the fee review was to enable Councils to move from a ratepayer funded service, to a more user pays fee structure, based on harm and risk.
- 4 These Regulations enabled local Councils to resolve to lower (by one fee category) some of the fees associated with alcohol licensing including:
 - lowering the fee category for certain licensed premises;
 - lowering the fee category for certain classes of special licence applications.
- 5 The only other opportunity for the Council to change the fee structure (by either lowering or increasing the fees) is if the Council undertakes a special consultative process and adopts a bylaw in relation to fee setting for licensed premises.

Fee regime

- 6 The Regulations introduced a new risk based fee regime for all licensed premises which consists of:
 - application fees being payable at the time of any application for a licence or for the renewal of a licence;

- annual fees being payable each year on the anniversary date on which the licence was issued with these fees being subject to change each year, dependent on whether enforcement actions have been taken against the premises;
- a risk based fee structure which assigns a weighting and therefore a fee category to each type of premises, which is influenced by the type of premises, the latest trading hours and the number of enforcement actions that have been taken against the premises in the previous 18 months.

7 The fees categories are outlined below:

Licensed Premises Fees		
Fee Category	Application fee	Annual fee
Very low	\$368.00	\$161.00
Low	\$609.50	\$391.00
Medium	\$816.50	\$632.50
High	\$1,023.50	\$1035.00
Very high	\$1,207.50	\$1,437.50

8 For special licences, a three tier classification system was introduced to more accurately assign fees based on the number and size of the events that were applied for.

Special Licence Fees	
Special Licence Class	Fee
Class 1 1 large event; or More than 3 medium events; or More than 12 small events	\$575.00
Class 2 1 to 3 medium events; or 3 to 12 small events	\$207.00
Class 3 1 or 2 small events	\$63.25

Note: Small event <100 people; Medium event 100 to 400 people; Large event > 400 people

Previous Council decision to vary fees

- 9 In January 2013 the Regulatory Management Committee resolved to lower fees for two types of licensed premises:
- Clubs (from low to very low) where the club is just outside the membership numbers or bar operational hours for a small club (by approximately 15%), has not had a failed controlled purchase operation, and has not had an enforcement action taken against it.
 - Café/Restaurant (from low to very low) where the café is not open in the evening (latest alcohol sales prior to 5pm), has not had a failed controlled purchase operation, and has not had an enforcement action taken against it.
- 10 That report did not consider lowering the fees for other types of licensed premises or special licences, because the impacts of fees on certain businesses

or activities were still unknown and the impact the new fee structure would have on cost recovery for the service.

- 11 The 2015/16 'Financial Report on Income and Cost Related to Alcohol Licencing and the Operation of the District Licensing Committee' showed that the alcohol licensing function was 56% user pays and 44% rates funded.

ISSUES AND OPTIONS

Issues

Licensed premises

OFF licence for complementary sales - specifically a gift basket supplier with no shop front

- 12 This business operator has requested officers bring this matter to the attention of Council to consider if they would approve a fee reduction for this particular business (or type of business) based on the following:
- Internet or phone sales only (no shop front) – no monitoring required
 - Minimal sales – 10 bottles per month for most of the year, 40 bottles per month in November and December
 - High priced alcohol – cost prohibitive therefore less risk of minors trying to purchase alcohol
- 13 Under the Fees Regulations, the licensed premises falls into a category of "premises not specified" which has a risk ranking of low, an application fee of \$609.50 every three years, plus an annual fee of \$391 per year.
- 14 This business has been operating since 2011 and before the Regulations came into force the Licensee paid \$794 every three years for the renewal of the licence. Since the Regulations came into force the Licensee now pays \$609.50 every three years for the licence renewal and \$1,173 every three years in annual fees, an increase of almost \$1,000 every three years.
- 15 This report proposes this fee reduces from a low to very low fee category. The Licensee would pay \$368 to renew the licence every three years and \$161 per year in annual fees, an overall free reduction every three years from \$1,782.50 to \$851.
- 16 Licensing staff support the fee being reduced by one fee category, from low to very low. This is a very low risk business which is unlikely to contribute to alcohol related harm or a reduction in good order and amenity values.

Special licences

- 17 There are a number of Rotary and Lions Clubs, and Retirement Village Associations groups that operate on yearly special licences, the cost of which has increased from \$64.40 a year to a maximum of \$575 per year.
- 18 More than half of these groups meet fortnightly or weekly which means they either have to apply for two Class 2 special licences (\$414) or one Class 1 special licence at \$575.

- 19 These groups have communicated their frustrations to staff about the impacts these costs are having on them. The majority of the members of these groups are retired and on fixed incomes, and the cost of the licence has to be passed on to them.
- 20 These groups could apply for a Club licence however, while there may be some financial benefit to this option if calculated over 4-5 years, feedback that we have received has shown that set up costs appear to be financially prohibitive.

Rotary and Lions Clubs

- 21 Currently there are five service clubs which hold special licences for dinner meetings and three that ceased applying for these licences when the fees increased.
- 22 Some of these Clubs have monthly dinner meetings, some twice per month and most have weekly meetings.
- 23 Generally the service clubs sell alcohol for a very limited time with most advising sale is limited to pre-dinner drinks. All have advised us that alcohol is not sold after dinner, or when the meeting or speeches are occurring.
- 24 These groups are community orientated, actively undertaking fundraising projects. Their dinner meetings involve members getting together and discussing initiatives and therefore it is extremely unlikely that the event itself or the individuals would contribute to alcohol related harm, or affect in a negative way the good order and amenity of the neighbourhood where these events are occurring.
- 25 It has been suggested to some of these groups that they could hold their meetings in licensed premises to avoid the cost of a special licence. However, they advised that the groups wished to continue to support community facilities such as the Ocean Road Community Centre, the viability of which would suffer if the regular rental income from the Clubs was lost.
- 26 Licensing staff consider that the cost of a \$575 special licence application is prohibitive and does not reflect the very low risk of harm or the cost of processing associated with these types of special licences, and would support the fee being reduced by one fee category, down to \$207 for these types of special licence applications.

Retirement village associations

- 27 In the past we had a number of Retirement Village Associations holding yearly special licences and currently have one Retirement Village Residents' Association which holds a Club licence. At this point in time we do not have any Retirement Villages that hold special licences for the sale of alcohol.
- 28 When these premises held special licences they were generally related to weekly pre-dinner get-togethers, the main purpose of which was to socialise with other residents. Most of these gatherings lasted for two hours from 4pm or 5pm after which people would either return to their home for dinner or attend a pre-arranged group dinner. Alcohol was only sold prior to dinner.
- 29 Generally the age demographic of people attending these social get-togethers was 60 years and over, with the occasional visiting family member attending as the guest of a resident.

- 30 Generally attendees walk home after these gatherings. As members live in the neighbourhood where they are socialising it would be extremely unlikely that the event itself or the individuals would be likely to contribute to alcohol related harm or affect in a negative way the good order and amenity of their neighbourhood.
- 31 Licensing staff consider that the cost of a \$575 special licence application is prohibitive and does not reflect the very low risk of harm or the cost of processing associated with these types of special licences and would support the fee being reduced by one fee category, down to \$207 for these types of special licence applications.

Cost of processing, administering and monitoring special licences

- 32 It is believed that the intention of the Act when setting fees for special licences was to increase application fees commensurate with the increased risk of harm surrounding the event or events, and to reflect the increased administrative, reporting and monitoring requirements for the larger events, thereby reducing the burden on ratepayers.
- 33 During the preparation of the public financial report mentioned in paragraph 11 of this report, the time spent on administration, reporting, monitoring and decision making for the different types of licences was not analysed, these figures were based on the costs of resourcing and overheads relative to income.
- 34 The estimated costs of processing special licence applications are:

Special Licence Class	Processing time	Processing cost (\$146/hour)	Current fee	Current User/rates funded	Proposed fee	Proposed User/rates funded
3	2 hours	\$292	\$63.25	21% / 69%	\$63.25	21% / 69%
2	2.5 hours	\$365	\$207	57% / 43%	\$207	57% / 43%
1 (large event)	3 – 4 hours	\$438 - \$584	\$575	100% / 0%	\$575	100% / 0%
1(series of small events - first application)	2.5 hours	\$365	\$575	157% / 0%	\$207	57% / 43%
1 (series of small events - subsequent application)	2 hours	\$292	\$575	197% / 0%	\$207	71% / 29%

- 35 It is clear that, for the most part, the fees set for special licences do not cover the costs associated with the processing of the applications, and considering that 65% of the total number of special licences processed are Class 3 special licences, this service will continue to be heavily rate payer funded into the future.
- 36 However, regardless of whether the whole of the special licences service is heavily funded by the ratepayer, it does not seem fair to over re-coup costs from such groups given the commitment to community fundraising and service by the Rotary and Lions Clubs, and the very low risk nature of the applications by the Clubs and the Retirement Village Associations.

- 37 If the Committee resolved to reduce these fees by one fee category, the impacts on income would be considered minimal and would have a negligible impact on the overall user pays ratio currently existing over the alcohol licensing service.
- 38 There are five Rotary and Lions Clubs that hold special licences, with a maximum income of \$2,875 per year. If the fees were reduced the total income to Council would be reduced to \$1,035.
- 39 At present Council does not have any Retirement Villages that have applied for a special licence, therefore there is no income. If the Retirement Villages were to apply for a special licence again the maximum income would amount to \$1,725. If the fees were reduced the income would be reduced to \$621.

CONSIDERATIONS

Policy considerations

- 40 There are no policies to consider in relation to this matter.

Legal considerations

- 41 The territorial authority can make these decisions pursuant to Regulation 6(4), 10(2) and 16 (4) of the Sale and Supply of Alcohol (Fees) Regulations 2013.

Financial considerations

- 42 Financial considerations are included in the body of the report.

Tāngata Whenua considerations

- 43 There are no Tāngata Whenua considerations in relation to these matters.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 44 This matter has a low level of significance under Council policy.

Consultation already undertaken

- 45 Some of the holders of these licences or special licences have expressed their concerns about fees to Council staff and some have indicated their interest in attending any meeting on the matter.

Publicity

- 46 Affected licensees will be directly notified of these decisions.

RECOMMENDATIONS

- 47 It is recommended that the Committee resolves to delegate to the Chief Executive (with authority to sub-delegate to appropriate staff) the authority on application; and on a case by case basis; to lower:

- a. The fee category (from Class 3 to Class 2) for a special licence for a series of events such as dinner meetings for any Service Club such as Rotary or Lions Clubs provided that:
 - The period during which alcohol is sold (is a maximum of 2 hours) on any one evening; and
 - The Licensee has not had an enforcement action taken against them.
- b. The fee category (from Class 3 to Class 2) for a special licence for a series of events such as weekly pre-dinner get-togethers, for any Retirement Village Group of residents or association provided that:
 - The period during which alcohol is sold (is a maximum of 2 hours) on any one evening; and
 - The Licensee has not had a negative holding ordered against them.
- c. The premises licence fee category (from low to very low) for any Off Licence (Complementary style) gift basket business that does not have a shop front (i.e phone and internet sales only) provided that:
 - The Licensee has not had negative holding ordered against them.

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