



AGENDA

Ordinary meeting of the

Planning and Regulatory Committee

**Thursday 2 April 2015
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Councillor Brian McGurk (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton (Deputy Chairperson), Matt Lawrey, and Mike Ward, and Ms Glenice Paine

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)
- It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

Apologies

1. Confirmation of Order of Business

2. Interests

- 2.1 Updates to the Interests Register
- 2.2 Identify any conflicts of interest in the agenda

3. Public Forum

- 3.1 The dangers of pesticides, herbicides, and fungicides on our health and environment

Seager Mason from Organic Green Grocer, Carolyn Hughes from Nelson Environment Centre, Ami Kennedy from Permaculture Institute NZ and Nelson Permaculture Group, and Zack Domike and Susie Lees from GE Free New Zealand, will speak about the dangers of pesticides, herbicides, and fungicides on our health and environment.

4. Confirmation of Minutes

- 4.1 12 March 2015 **6-12**

Document number A1327896

Recommendation

THAT the minutes of the meeting of the Planning and Regulatory Committee, held on 12 March 2015, be confirmed as a true and correct record.

- 4.2 19 February 2015 **13**

Document number A1316156

Recommendation

THAT the minutes of the meeting of the Planning and Regulatory Committee, held on 19 February 2015, be confirmed as a true and correct record.

**5. Status Report – Planning and Regulatory Committee
2 April 2015** **14**

Document number A1155974

Recommendation

THAT the Status Report – Planning and Regulatory Committee 2 April 2015 (A1155974) be received.

6. Chairperson’s Report

REGULATORY

7. Fees and Charges: Consents and Compliance (non RMA) 2015 – 2016 **15-25**

Document number A1318731

Recommendation

THAT the report Fees and Charges: Consents and Compliance (non RMA) (A1318731) and its attachments (A1324979, A1324986 and A1324990) be received.

Recommendation to Council

THAT the Dog Control Fees and Charges for 2015 - 2016 be adopted as detailed in Attachment 1 to Report A1318731;

AND THAT the Environmental Health and other activities fees and charges for 2015-2016 be adopted as detailed in Attachment 2 to Report A1318731;

AND THAT the Provision of Property Information Fees and Charges for 2015-2016 be adopted as detailed in Attachment 3 to Report A1318731;

AND THAT the charges for Dog Control, Environmental Health and Provision of Property Information activities apply as from 1 July 2015 until such time as they are varied or amended by Council;

AND THAT the Dog Control charges be publicly advertised in accordance with Section 37(6) of the Dog Control Act 1996.

8. Submission on Proposals for Regulations (Cost Recovery) under the Food Act 2014

26-47

Document number A1318785

Recommendation

THAT the report Submission on Proposals for Regulations (Cost Recovery) under the Food Act 2014 (A1318785) and its attachments (A1317637 and A1319085) be received;

AND THAT the submission in Attachment 1 of this report (A1318785) be confirmed by the Committee as the position of the Council on the proposals for regulations (cost recovery) under the Food Act 2014.

Note:

- **Lunch will be provided at 12.00pm.**
- **Youth Councillor Sam McIlroy will be in attendance at this meeting.**

Minutes of a meeting of the Planning and Regulatory Committee

Held in the Council Chamber, Civic House, 110 Trafalgar St,
Nelson

On Thursday 12 March 2015, commencing at 10.32am

Present: Councillors B McGurk (Chairperson), I Barker, R Copeland, K
Fulton (Deputy Chairperson), M Lawrey, and M Ward, and
Glenice Paine

In Attendance: Group Manager Strategy and Environment (C Barton),
Kaihautu (G Mullen), Manager Planning (M Heale), Manager
Building (M Brown), Manager Consents and Compliance (M
Bishop), Manager Administration (P Langley), and
Administration Adviser (S McLean)

Apologies: Her Worship the Mayor and Councillor Davy

1. Apologies

Resolved

***THAT apologies be received and accepted from
Her Worship the Mayor and Councillor Davy.***

Ward/Fulton

Carried

2. Confirmation of Order of Business

2.1 Joint Engineering Standards/Land Development Manual with Tasman
District Council

Resolved

***THAT the item regarding Joint Engineering
Standards/Land Development Manual with
Tasman District Council be considered at this
meeting as a major item not on the agenda,
pursuant to Section 46A(7)(a) of the Local
Government Official Information and Meetings
Act 1987, to enable the matter to be considered
by both Nelson City and Tasman District Council
within similar timeframes.***

PDF A1327896
McGurk/Ward

Carried

2.2 Fees and Charges: Resource Consents and Resource Management Act Planning Documents 2015-2016

Resolved

THAT the item regarding Fees and Charges: Resource Consents and Resource Management Planning Documents 2015-2016 be considered at this meeting as a major item not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable consultation on the matter to align with the Long Term Plan 2015-25 consultation.

McGurk/Paine

Carried

3. Interests

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

4. Public Forum

There was no public forum.

5. Confirmation of Minutes – 27 November 2014

Document number A1288319, agenda pages 7-16 refer.

Resolved

THAT the minutes of a meeting of the Planning and Regulatory Committee, held on 27 November 2014, be confirmed as a true and correct record.

McGurk/Ward

Carried

6. Status Report – 19 February 2015

Document number A1155974, agenda pages 17-18 refer.

Resolved

THAT the Status Report – Planning and Regulatory Committee 19 February 2015 (A1155974) be received.

McGurk/Lawrey

Carried

7. Chairperson's Report

Document number A1313063, agenda pages 19-22 refer.

The Chairperson highlighted that the Land, Air, Water Aotearoa video on the Maitai River was now available on YouTube. He summarised the Marlborough Marine Futures event and suggested a similar approach could be considered by Council in the future.

Resolved

THAT the Chairperson's Report (A1313063) be received and the contents are noted.

McGurk/Lawrey

Carried

8. Ngati Kuia Pakohe Management Plan

Document number A1294314, agenda pages 23-25 refer.

Manager Administration, Penny Langley, presented the report.

In response to questions, Group Manager Strategy and Environment, Clare Barton, advised that Council was legally required to give effect to the Pakohe Management Plan (the Plan). She said Ngati Kuia would be advised of this.

Ms Barton advised that in giving effect to the Plan, Council was required to undertake consultation. In response to a question, she said there were no conditions that precluded Council consulting with iwi of other areas.

Senior Planning Adviser, Lisa Gibellini, said a process for accidental discovery of pakohe in its raw form was followed by infrastructure officers.

In response to concerns raised about balancing competing and overlapping conditions of Council, the Plan and iwi, it was suggested that an appropriate forum for discussion would be an upcoming Nelson Plan workshop.

Resolved

THAT the report Ngati Kuia Pakohe Management Plan (A1294314) be received;

AND THAT the item Ngati Kuia Pakohe Management Plan which was left to lie on the table at the Planning and Regulatory Committee meeting held on 27 November 2014 requires no further consideration by the Committee.

McGurk/Ward

Carried

9. **Strategy and Environment Report 1 October to 31 December 2014**

Document number A1271834, agenda pages 26-54 refer.

Manager Building, Martin Brown, Manager Consents and Compliance, Mandy Bishop, and Manager Planning, Matt Heale presented the report.

In response to questions, Ms Bishop said the Council Harbourmaster had been in contact with paddle board hire operators and advised them of the requirement that paddle board users wear lifejackets. She highlighted that no infringement fee could currently be charged, but this would change in the future once a system had been established to issue infringements under the Maritime (Offences) Regulations rather than through Council's Navigation Safety Bylaw.

In response to a question, Group Manager Strategy and Environment, Clare Barton, advised that a report with options for Ecofest would be brought to Council in the near future.

Mr Heale highlighted the amended Nelson Plan workshop dates which were tabled (A1316002). He added that the community meeting on woodburners had been scheduled for 16 March 2015.

There was discussion on the lower than usual number of building consent applications. Mr Brown advised that several factors influenced application numbers, and highlighted a change in guidance for works that no longer required building consent. Mr Brown suggested a review could be carried out in the future if the decline in consent applications continued. He said there was flexibility in the use of contractors when processing building consents during slower periods.

In response to questions, Mr Brown advised that building alteration works was trending higher in comparison to new build work. Ms Bishop added that subdivisions were now likely occurring on hilly land which could impact development costs. She said there was no noticeable increase in consents for converting existing houses into multi-unit dwellings.

The Chairperson commended officers on the work done to develop and complete the HAIL site database.

Resolved

THAT the Strategy and Environment Report for 1 October to 31 December 2014 (A1271834) and its attachments (A1294825, A1272153, A1299949, A1289588, and A1280159) be received.

McGurk/Fulton

Carried

10. Earthquake - Prone, Dangerous and Insanitary Buildings Policy 2006; Policy Wording Change

Document number A1300766, agenda pages 55-57 refer.

Manager Building, Martin Brown, presented the report.

Resolved

THAT the report Earthquake-Prone, Dangerous and Insanitary Buildings Policy 2006; Policy Wording Change (A1300766) be received.

Recommendation to Council

THAT the Earthquake-Prone, Dangerous and Insanitary Buildings Policy 2006 be amended from:

'Nelson City Council will require buildings identified as earthquake prone to be strengthened to at least 67 percent of the standard NZS1170.5: 2004 Structural Design Actions Part 5: Earthquake Actions - New Zealand.'

To:

'Nelson City Council will require buildings identified as earthquake prone to be strengthened to at least 34 percent of the standard NZS1170.5:2004 Structural Design Actions Part 5: Earthquake Actions - New Zealand.'

Noting the section below is now no longer relevant so should also be deleted:

'In accordance with the recommendations of the New Zealand Society for Earthquake Engineering, the Council considers this to be an appropriate level for the requirement to reduce or remove the danger.'

Fulton/Copeland

Carried

11. Joint Engineering Standards/Land Development Manual with Tasman District Council

Document number A1317664, late item A1324685 refers.

Senior Planning Adviser, Lisa Gibellini, presented the report.

PDF A1336201

Resolved

THAT the report Joint Engineering Standards/Land Development Manual with Tasman District Council (A1317664) be received;

AND THAT the Committee confirms the officers continue to progress the joint standards to align with the development of the Nelson Plan.

Barker/Lawrey

Carried

12. Fees and Charges: Resource Consents and Resource Management Act Planning Documents 2015-2016

Document number A1317553, late item A1324685 refers.

Manager Consents and Compliance, Mandy Bishop, presented the report.

Resolved

THAT the report Fees and Charges: Resource Consents and Resource Management Act Planning Documents 2015-2016 (A1317553) and its attachments (A1317066 and A1316932) be received.

Recommendation to Council

THAT the draft Fees and Charges Resource Consents and Resource Management Act Planning Documents 2015-2016 be approved for public consultation and notification using the Special Consultative Procedure.

Fulton/McGurk

Carried

13. Parking and Vehicle Control Bylaw (2011), No.207 Amendments to Schedules

Document number A1310811, agenda pages 58-60 refer.

Manager Operations, Shane Davies, presented the report.

Mr Davies highlighted that additional development in Strawbridge Square had resulted in the requirement for additional temporary parking, and the new businesses were in support of this.

Resolved

THAT the report Parking Vehicle Control Bylaw (2011), No. 207 Amendments to Schedules (A1310811) and its attachment (A1310837) be received;

AND THAT the following addition to Schedule 8 of Bylaw No 207, Parking and Vehicle Control (2011) be approved:

P180 parking along the northern kerb of Neale Avenue, adjacent to its intersection with Songer Street.

Fulton/Paine

Carried

14. Hearings Panel – 17 November 2014

Document number A1276032, agenda pages 61-67 refer.

Resolved

THAT the minutes of a meeting of the Hearings Panel, held on 17 November 2014, be received.

Barker/Fulton

Carried

There being no further business the meeting ended at 11.15am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Minutes of a meeting of the Planning and Regulatory Committee

**Held in the Council Chamber, Civic House, 110 Trafalgar St,
Nelson**

On 19 February 2015, due to commence at 9.00am

Present: Councillors B McGurk (Chairperson), M Lawrey, M Ward and
Glenice Paine.

In attendance: Group Manager Strategy and Environment (C Barton),
Manager Administration (P Langley), and Administration
Adviser (F O'Brien)

Apologies: Her Worship the Mayor, Councillors I Barker, R Copeland and
E Davy for lateness

1. Meeting lapse due to lack of quorum

In accordance with Standing Order 3.5.1, no quorum was present
within 10 minutes of the meeting. Therefore the meeting lapsed.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Status Report – Planning and Regulatory 2 April 2015

| Date of meeting/Item | Action Resolution | Officer | Status |
|--|--|----------------|--|
| 18/02/14 P&R Committee Alteration to Resolution – Draft Local Approved Products Policy (Psychoactive Substances) | AND THAT hearing of submissions to the draft Local Approved Products Policy by the Planning and Regulatory Committee be delayed until further information is available from the Ministry of Health. | Nicky McDonald | 2/4/2015 Hearings complete, deliberations to be scheduled. ONGOING |

Fees and Charges: Consents and Compliance (non RMA) 2015-2016

1. Purpose of Report

- 1.1 To adopt the fees and charges for 2015-2016 for dog control, environmental health and provision of property information activities.

2. Delegations

- 2.1 There is no delegation from the Council to set Fees and Charges.

3. Recommendation

THAT the report Fees and Charges: Consents and Compliance (non RMA) (A1318731) and its attachments (A1324979, A1324986 and A1324990) be received.

Recommendation to Council

THAT the Dog Control Fees and Charges for 2015 - 2016 be adopted as detailed in Attachment 1 to Report A1318731;

AND THAT the Environmental Health and other activities fees and charges for 2015-2016 be adopted as detailed in Attachment 2 to Report A1318731;

AND THAT the Provision of Property Information Fees and Charges for 2015-2016 be adopted as detailed in Attachment 3 to Report A1318731;

AND THAT the charges for Dog Control, Environmental Health and Provision of Property Information activities apply as from 1 July 2015 until such time as they are varied or amended by Council;

AND THAT the Dog Control charges be publicly advertised in accordance with Section 37(6) of the Dog Control Act 1996.

4. Background

- 4.1 The Consents and Compliance Business Unit is responsible for a variety of functions that have an element of cost recovery. While some charges are set by statute, other statutes give local authorities the power to set charges (Dog Control Act 1996, section 37). This report considers fees and charges for:
- dog registration and the pound;
 - health licensing; and
 - provision of property information.
- 4.2 The other activity in the Consents and Compliance Business Unit that has cost recovery is resource consents and resource management planning documents. The report recommending change to the staff hourly rate was considered by Council on 19 March 2015 to enable public consultation at the same time as consultation on the LTP. No public consultation is required for the activities contained in this report.
- 4.3 Funding for the dog control, environmental health and provision of property information activities is achieved by Council through a mix of general rates, fees and charges and infringement fees and fines. The level of cost recovery from applicants affects the level of ratepayer funding that is required.
- 4.4 Section 101 (3) of the Local Government Act 2002 requires that charges are to be cost-effective with those gaining the benefit from the service paying the reasonable cost for that service.

5. Discussion

Dog Control

- 5.1 The Dog Control activity is funded mostly by registration fees, dog impounding fees and some minor income from infringement fees and court awarded costs.
- 5.2 The costs of the dog control activity are largely fixed being adjusted only by the Consumer Price Index. The number of dog registrations is expected to increase so the income from fees should normally cover the CPI increase in costs.
- 5.3 For 2012-2013 the dog numbers increased by 3.5% and the total income for the activity exceeded the costs by \$16,200. The costs at that time did not include the legal costs associated with prosecutions. Some changes were made to the 2013-2014 fees and charges as part of adopting the new Dog Control Policy (adopted on 19 February 2013) that generally increased the fees, had a greater differentiation between those on the good dog owner scheme and those that were not and included a discount if the dog was neutered.

- 5.4 The increasing number of dogs and greater awareness of dog control issues with the new Dog Control Policy contributed to an increased workload for dog control officers. The contract for dog control services was adjusted accordingly in October 2013.
- 5.5 Between 30 June 2014 and 28 February 2015 there has been an increase in dog registrations of 2.5% (a total of 5,581 dogs registered). For 2013-2014 the dog control costs exceeded the income by \$20,485 (or the income needed to be 5% higher to cover costs). As at 31 January 2015 the costs exceed the income by \$18,579.89 (or the income needs to increase by 8% to cover costs).
- 5.6 This financial year there has been over \$10,000 spent on legal and other costs associated with a prosecution that took a long time to complete. While the dog control reserve fund has covered this shortfall and other shortfalls in the past, it is recommended that current charges are increased for 2015-2016 to ensure current costs are met by current dog owners.
- 5.7 If there are no high costs associated with prosecutions the income from fees and charges would need to increase by 3.5% to cover costs. If more prosecutions occur then fees would need to increase by about 8% to cover costs. It is recommended to raise costs by 5% as a mid point to still cover the costs of some prosecutions recognising the costs experienced this year have been unusual.
- 5.8 It is also recommended to delete the charge for checking the fencing for the Good Dog Owner scheme as this in reality is usually combined with other checks.

Health Certification for Registered Premises (non food premises)

- 5.9 These Certificates are issued as a requirement under the Health Act 1956, Food Act 1981 and cover a number of specified business activities with the majority being food premises.
- 5.10 The premises which are non-food that are required to be registered under the Health Act 1956 are hairdressing premises, camping grounds, offensive trades and funeral directors and mortuaries.
- 5.11 A review of registered premises fees charged by local authorities of similar population and area to Nelson has been undertaken (as well as the adjoining Councils of Tasman and Marlborough):

| Council | Population | Area (km2) | Type | Charge Range | | | |
|-------------|------------|------------|---------------|--------------|----------------|-----------------|------------------|
| | | | | Hairdresser | Camping Ground | Offensive Trade | Funeral Director |
| Nelson | 48,700 | 422 | Urban | 155 | 270 | 330 | 170 |
| Tasman | 48,800 | 9,734 | Rural + urban | 165 | 256 | 236 | 256 |
| Marlborough | 44,700 | 10,491 | Rural + Urban | 160 | 235 | 160 | 180 |

| Council | Population | Area (km ²) | Type | Charge Range | | | |
|-----------------------------|------------|-------------------------|---------------|---------------|----------------|-----------------|------------------|
| | | | | Hairdresser | Camping Ground | Offensive Trade | Funeral Director |
| Wanganui | 43,500 | 105 | Urban | 120.5 | 120.5 | 120.5 | 120.5 |
| Invercargill | 53,200 | 123 | Urban | 245 | 430 | 245 | 245 |
| Whangarei | 83,700 | 133 | Urban | 176 | 313 | 210 | 210 |
| New Plymouth | 77,100 | 112 | Urban | 164 | 320 | 163 | 156.5 |
| Rotorua | 68,400 | 89 | Urban | 175 | 259 | 269 | 175 |
| Palmerston North | 83,500 | 178 | Urban | 473 | 527 | 527 | 527 |
| Dunedin | 123,500 | 255 | Urban | 176 | 343 | 114 | 249 |
| Gisborne | 47,000 | 8,355 | Rural + Urban | 198-392 | 311-415 | 258-415 | 256 |
| Average (- Gisborne) | | | | 200.95 | 307.35 | 237.45 | 228.9 |

- 5.12 With the exception of offensive trades, the fees charged by Nelson are comparable with adjoining authorities and generally lower than the referenced Councils.
- 5.13 The work related to the annual registration and inspection of offensive trades registered with Council is not significant, requiring approximately 1.5 to 2 hours of staff time per annum.
- 5.14 The income for the current financial year to 31 January 2015 exceeds the costs of the overall health licensing service by approximately 10%. It is recommend the Offensive Trade Registration fee be reduced from \$330.00 to \$236.00 (inc GST) and the other non-food type premises to remain the same.

Food Act 1981 – Registered Premises

- 5.15 Since 2008 the New Zealand Food Safety Authority (now Ministry for Primary Industries) has encouraged Councils to run a Voluntary Implementation Programme (VIP) which basically provides a trial run for premises to operate under a templated Food Control Plan (FCP).
- 5.16 A Food Control Plan is a risk-based tool that helps food operators effectively and systematically meet their food safety obligations. It concentrates on what people need to do to keep food safe. Depending on the type of food business, it identifies potential food safety risks at each point from receiving and storing goods to preparing, cooking and serving food. Step-by-step information and checklist style tools show staff how to manage these risks to protect customers.
- 5.17 Templated FCPs will become a feature for middle and high risk retail food premises under the Food Act 2014. Templated FCPs will require registration and verification by territorial authorities.
- 5.18 Currently Nelson City Council has 38 premises that have been approved to transfer to the template Food Control Plan and we now have a

continual steady stream of food business transferring over to the new system prior to the change becoming mandatory in March 2016.

- 5.19 The table below show current charges with comparisons to similar sized Councils and also to our neighbours Tasman District Council and Marlborough District Council. Given there are a number of charges that are within a range it is not easy to determine an average but on the whole Nelson's charges are comparable with what others charge:

| Council | Charge Range | | | | | | |
|------------------|--------------|---------------|--------------|------------------|----------------|-----------------|-----------|
| | Stall | Food Premises | Transfer Fee | Registration Fee | Inspection Fee | Charge Out Rate | FCP (VIP) |
| Nelson | 165-250 | 165-375 | 0-75 | | 75 | 125 | 375 |
| Tasman | 54-86 | 171-588 | | 139-165 | | 145 | 81+ |
| Marlborough | 130 | 175-380 | 45 | | 130 | 130 | 95+ |
| Wanganui | 149.5 | 120.5 | | 120.5 | | 120.5 | |
| Invercargill | 157 | 115-430 | 41 | | 115 | 115 | 115-510 |
| Whangarei | 195 | 105-2,038 | 61 | | 128 | 125 | |
| New Plymouth | 81 | 580-945 | 83 | | | | |
| Rotorua | 116-447 | 116-447 | 45 | | 169 | 169 | 116-447 |
| Palmerston North | 168 | 266-1,898 | 179 | | 156 | 156 | 266-1,898 |
| Dunedin | 114-718 | 365-1,450 | 83 | | | | |
| Gisborne | 34-110 | 231-820 | 110 | | 133 | 133 | 231-820 |

- 5.20 In addition to the templated Food Control Plans there will be a number of lower risk food businesses transferring onto the National Programmes. Some of these will be registered with the Council on an annual basis but verification (inspection of the premises) will vary both in terms of frequency and who does the verification. Food businesses that have multiple sites for example may opt to be registered with MPI and have verification undertaken by a third party verifier.
- 5.21 As much of the detail remains to be covered by Regulations, it is not clear at this time what the exact involvement of the Council will be in regards to premises covered by National programmes. The Food Act 2014 requires that Councils will have to be a 'Recognised Agency' to undertake verification of National Programmes. To obtain 'Recognition' Councils will have to provide appropriate quality management systems for the proposed verification function of National Programmes.
- 5.22 For the 2013-2014 financial year the total fees provided \$12,202 more income than the costs of the activity.
- 5.23 Reducing fees and charges has been considered but with the promulgation of the Food Act 2014 it is evident that there will be an increase in workload associated with the introduction of Food Control Plans and National Programmes. The costs of carrying out this activity will also increase by a percentage equivalent to the Consumer Price Index.

PDF A1336201

- 5.24 Changing from fixed fees to recovery based on an hourly rate has also been considered but given the regulation is still under review with changes anticipated, it is not considered prudent to make adjustments until the final impacts of regulation reviews are known. It is likely adjustments will be required for the 2016-2017 year to account for increasing staff time required to administer the legislated changes.
- 5.25 It is recommended there be no change to the fees and charges until the impacts of the legislative changes are known.
- 5.26 A late payment option is recommended to offset the increasing workload of chasing up late payers. While current provisions enable a 20% late payment penalty it is proposed to detail the cost of each category with the 20% charge to make this more overt.

Liquor Licences

- 5.27 Licence fees are set by the Sale and Supply of Alcohol Act 2012.
- 5.28 For the 2013-2014 financial year 15% of the costs of the activity are recovered from rates (24% of the costs were met by rates in 2012-13). The new fees under the Sale and Supply of Alcohol Act 2012 generally have higher application fees than previous years (based on the type, scale and any compliance issues of the licence) and also introduce an additional annual fee for some licences. These fees only took effect from 18 December 2013. Prior to that date Central Government set fees did not fully meet the costs of the activity.
- 5.29 The income for the current financial year to 31 January 2015 exceeds the costs of the licensing service by approximately 10%. Council could decide to set different fees through a Bylaw process if the nationally set fees do not fairly reflect the cost of the alcohol licensing and inspection service. However the Council approved circumstances where discretion is used to reduce alcohol licensing fees in October 2014. The effect of these changes is anticipated to still have an overall income exceeding the costs of the activity but by an amount less than 10%.
- 5.30 It is recommended to continue to use the nationally set fees and charges for this activity for 2015-2016.

Provision of Property Information

- 5.31 This includes the charges for obtaining a Land Information Memorandum (LIM), access to property files, building consent files, resource consent files, geotechnical reports.
- 5.32 For the 2013-2014 financial year the income exceeded the expenses by \$1,856.71. To 31 January 2015 the income exceeds the expenses by \$23,865. Income from Land Information Memorandum applications numbers has significantly increased (perhaps instigated by updating property records with HAIL information and the associated enhanced awareness to get a LIM before purchasing a property).

- 5.33 Currently the income from LIMs is \$107,754 and at the same time last year the LIMs income was \$90,636. The table below compares current charges with other Councils:

| Council | Charge | |
|------------------|-------------|-------------------|
| | Residential | Commercial |
| Nelson | 285 | 440 |
| Tasman | 266 | 400 |
| Marlborough | 322 | 557 |
| Wanganui | 162 | 150+ 130 per hour |
| Invercargill | 200 or 250 | 250 or 350 |
| Whangarei | 337-431 | 610-735.50 |
| New Plymouth | 270 or 385 | 360 or 500+ |
| Rotorua | 200+ | 250+ |
| Palmerston North | 422 | 422 |
| Dunedin | 260 or 310 | 340 |
| Gisborne | 251-455+ | 307-429+ |

- 5.34 The expenses include staff time associated with these activities but do not incorporate the costs of storing and maintaining Council records. No changes to the provision of property information charges are recommended.

6. Options

- 6.1 Fees and charges should be set to ensure they are not a barrier to growth and development while recognising the applicant or licence holder will receive the majority of the benefit in holding such document.
- 6.2 The preferred option is to lower the offensive trade charge, increase dog charges and keep food licensing the same until regulations have been finalised. The introduction of a higher payment for food premises if received after the due date is to incentivise on time payment and reduce the cost implication of following up late payers.
- 6.3 Keeping the status quo unfairly burdens the ratepayer and does not have the most cost effective option for all households and businesses.

7. Assessment of Significance against the Council's Significance and Engagement Policy

- 7.1 This is not a significant decision in terms of the Council's Significance Policy.

8. Alignment with relevant Council Policy

- 8.1 The recommended fees and charges are consistent with the required statutes and assist with achieving the stated funding policy in the Long Term Plan.

9. Consultation

- 9.1 Consultation has not been undertaken with any external parties. Fees and charges for Dog Control services will be publicly advertised in accordance with section 37(6) of the Dog Control Act 1996.

10. Inclusion of Māori in the decision making process

- 10.1 There has been no consultation with Māori regarding this recommendation.

11. Conclusion

- 11.1 A review of current fees and charges show that most charges are meeting the costs of providing the service and are comparable with similar sized and nearby organisations.
- 11.2 Some changes are recommended to ensure the fees and charges are fair and reasonable and are met by those gaining the benefit of that service.

Mandy Bishop
Manager Consents and Compliance

Attachments

- Attachment 1: Dog Control Fees and Charges for 2015-2016 [A1324979](#)
- Attachment 2: Environmental Health and other activities fees and charges for 2015-2016 [A1324986](#)
- Attachment 3: Provision of Property Information fees and charges for 2015-2016 [A1324990](#)

Dog Control Fees and Charges

| Registration Fees | Current \$ | Proposed \$ |
|---|-------------------|--------------------|
| Rural dogs (properties of 1 hectare or more) | 45.00 | 47.25 |
| Dogs Good Dog Owner Scheme | 62.00 | 65.00 |
| All other urban dogs | 80.50 | 84.50 |
| All dogs classified as dangerous (standard registration fee, plus 50% surcharge as required by statute) | 120.75 | 126.75 |
| Police, Seeing Eye and Hearing Dogs | 5.00 | 5.00 |
| A late payment penalty of 50% of the registration shall apply to all registrations remaining unpaid on 1 August 2015 and all dogs unregistered after 1 September 2015 shall incur a further \$200 infringement fee, plus penalty. Such penalties are to be made clear on the invoice for registration. | | |
| Replacement registration disc | 5.00 | 5.00 |
| Inspection for compliance for fencing for all owners on the Good Dog Owner Scheme changing properties | 54.00 | |
| Impounding Fees (in any 12 month period) | | |
| First Impounding | 65.00 | 68.00 |
| Second Impounding | 140.00 | 147.00 |
| Third Impounding | 200.00 | 210.00 |
| Daily charge (for each day following impounding) | 15.00 | 15.00 |
| After hours callout charge (outside normal working hours) | 65.00 | 68.00 |
| Install microchip to impounded dogs where required | 35.00 | 37.00 |

Environmental Health Licence and Other Activities Fees and Charges

Changes to current charges are shown as strikethrough and new charges shown as bold.

| Licence and Activity Fees | \$ if paid on or before 31 July | \$ if paid after 31 July |
|---|------------------------------------|--------------------------|
| Template Food Safety Programmes (Food Control Plans) includes annual administration charge and a maximum of 2 hours audit time | 375.00 | 450.00 |
| Additional audit time per hour (charged in 15 min intervals) | 125.00 | 125.00 |
| Registered Food premises - | | |
| 1. General food premises including up to two inspections in one year | 375.00 | 450.00 |
| 2. High food risk small premises (area less than 50 sqm including food stalls) | 250.00 | 300.00 |
| 3. Low food risk small premises (area less than 50 sqm including food stalls) and generic market Certificate of Registration | 165.00 | 198.00 |
| 4. Non-commercial premises used for storage and/or low risk food preparation for a registered low food risk stall ("approved support base" and is additional to stall fee) | 75.00 | 90.00 |
| 5. Occasional (less than four times a year) or out of town registered stalls, non-perishable pre-packaged food stall or fresh fruit and vegetable stalls where market convener holds Certificate of Registration for the market | 0.00 | 0.00 |
| 6. Additional inspection per inspection or per hour whichever is the greater | 125.00 | 125.00 |
| 7. Transfer of Registration fee | 75.00 | 75.00 |
| Hairdressers | 155.00 | 186.00 |
| Offensive trades | 330.00 236.00 | 283.00 |
| Camping grounds | 270.00 | 324.00 |
| Funeral directors | 170.00 | 224.00 |
| Late fee penalty, fees overdue by more than one month | 20% | |
| Animal Control (other than dogs) time taken at hourly charge out rate | 125.00 p/h | 125.00 |

Provision of Property Information

1.1 Land Information Memorandum (LIM)

Charge

| | |
|---------------------------------|----------|
| Residential sites | \$285.00 |
| Commercial and Industrial sites | \$440.00 |

1.2 Access to Site File Documents

Charge

| | |
|--|--|
| Property Information: <ul style="list-style-type: none"> • Residential site files • Commercial/Industrial site files • Building Consent Files • Resource Consent & Subdivision files • Geotech reports Charges will allow for up to 15 minutes staff time to discuss the file contents. Beyond this time charges for staff will apply as per applicable staff hourly rates. | \$20.00 <i>(no charge for owners of site)</i> |
| Memory stick: for transfer of scanned property information | \$15.00 |
| Deposited Plans (DPs) Survey Office Plans (SOs) | \$20.00 |
| Organisations requiring regular access to site file records stored on-site can negotiate a 'regular user' rate for access to records and photocopying facilities as follows: | |
| * Concession Card (5 file access) | \$80.00 |
| * Regular Users Corporate (2 or more from same company) | \$1,730.00 |
| * Sole Practitioner | \$865.00 |

1.3 Photocopying Charges

| | |
|----------------------------|---|
| A4 | \$0.20 per page |
| A3 | \$0.50 per page |
| Large copies staff time | \$3.00 per page or actual cost from copy service plus |
| A4/A3 GIS plots | \$11.00 (black and white copy) |

Charges apply as from 1 July 2015

All charges are GST inclusive

Submission on Proposals for Regulations (Cost Recovery) under the Food Act 2014

1. Purpose of Report

- 1.1 To confirm the submission prepared and submitted by staff on 20 February 2015 on proposals for regulations (cost recovery) under the Food Act 2014 is the position of the Council.

2. Delegations

- 2.1 The committee has the power to decide to lodge and present submissions to external bodies on policies and legislation relevant to the areas of responsibility.

3. Recommendation

THAT the report Submission on Proposals for Regulations (Cost Recovery) under the Food Act 2014 (A1318785) and its attachments (A1317637 and A1319085) be received;

AND THAT the submission in Attachment 1 of this report (A1318785) be confirmed by the Committee as the position of the Council on the proposals for regulations (cost recovery) under the Food Act 2014.

4. Background

- 4.1 The Ministry for Primary Industries (MPI) released their consultation document titled "Proposals for regulations under the Food Act 2014" dated January 2015 and followed this up with workshops on 4 February 2015 in Nelson. Staff and industry from the Top of the South attended these workshops.
- 4.2 The proposals apply to the food businesses covered by the food sectors identified in Schedule 1 and Schedule 2 of the Food Act. They cover a wide range of areas to bring this Act into operation, including requirements for registration and verification (auditing) of businesses, requirements to ensure food is safe and suitable, requirements for importers of food, cost recovery, infringements, exemptions, and how

existing businesses will make the transition from the Food Act 1981 to the Food Act 2014.

4.3 There are two deadlines relating to different aspects of this consultation:

- 5pm on 20 February 2015 for responses to the cost recovery proposals (section 7 of the document); and
- 5pm on 31 March 2015 for all other proposals.

4.4 This report covers the submission relating to the first deadline only. A subsequent submission will be prepared before 31 March and reported to the Planning and Regulatory Committee on 14 May.

5. Discussion

Section 7

5.1 The proposals in this section relate to the cost recovery systems associated with changes to the Food Act.

5.2 The Food Act 2014 requires Councils to set fees and charges through a Special Consultative Procedure (SCP) in Section 205(2). In addition Section 205 (6) states that any increase in fees for any financial year must not come into effect other than at the commencement of that financial year. The exceptions to Section 6 are when those affected by the changes agree or substantially agree with the changes or the changes are to correct an error.

5.3 A SCP typically takes three to four months. The Regulations take effect from 1 March 2016. There is potentially insufficient time to begin a SCP process after 1 March 2016 to have the fees and charges decided by the Council in time for commencement on 1 July 2016. If the process was not completed in time any increase in fees could not have effect until 1 July 2017.

5.4 A SCP could commence one month earlier than 1 March 2016 (the hearings and decisions to occur after 1 March 2016), but it is unclear when MPI will finalise the Regulations. MPI intend to carry out further consultation "later in 2015" after making any changes resulting from this round of consultation.

5.5 Fees and charges will be difficult to set before the Regulations are finalised as fees are largely determined by staff time required to provide the service. The Regulations provide the detail in how to administer the requirements of the Food Act 2014 and therefore provide the basis for determining the level of additional resourcing that will be required.

5.6 It is noted that the Local Government Amendment Act 2014 reduces the requirement to use the SCP. The Food Act 2014 and other enactments are yet to adopt this change.

- 5.7 In addition the timeframe for the setting of Council budgets occurs much earlier than March 2016. Budgets are based on an anticipated income from fees and charges and associated expenses. Essentially the timeframe proposed in the cost recovery regulations do not align with existing Council financial systems.

6. Options

- 6.1 The preferred option is for the Ministry to set default fees and charges and should Councils wish to increase any fee or charge they need to use the Special Consultative Procedure (or some other mechanism) to do so. This enables the Council to better align the timeframe with existing financial systems.
- 6.2 Another option is to support the cost recovery proposals realising there may not be adequate time to increase any fees and charges for the start of the next financial year.
- 6.3 The preferred option better meets the purpose of local government as it is the most cost effective option where the benefiter of the registration and/or verification pays the costs of this service.

7. Assessment of Significance against the Council's Significance and Engagement Policy

- 7.1 This is not a significant decision in terms of the Council's Significance Policy.

8. Alignment with relevant Council Policy

- 8.1 The recommended submission on cost recovery proposals is consistent with other regulations such as the Sale and Supply of Alcohol Act 2012 and assists with achieving the stated funding policy in the Long Term Plan.
- 8.2 Fees and charges should be set to ensure they are not a barrier to growth and development while recognising the applicant or licence holder will receive the majority of the benefit in holding the authority confirming their ability to sell food.
- 8.3 The registration and/or verification of food premises ensure minimum health standards are met. The provision of this service is only sustainable if adequate fees and charges cover the cost of providing the service.

9. Consultation

- 9.1 Informal consultation has occurred with industry and other Top of the South Councils. Tasman and Marlborough District Councils have made similar submissions to that included in Attachment 1.

10. Inclusion of Māori in the decision making process

- 10.1 There has been no consultation with Māori regarding this recommendation.

Mandy Bishop
Manager Consents and Compliance

Attachments

- Attachment 1: Unconfirmed Submission from Nelson City Council [A1317637](#)
Attachment 2: Section 7 of the Proposals for regulations under the Food Act 2014 [A1319085](#)



Ministry for Primary Industries
Proposals for regulations under the Food Act 2014

SUBMISSION FROM NELSON CITY COUNCIL

To: foodregulations@mpi.govt.nz

20 February 2015

This submission is made by: Nelson City Council

Address for Service:

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Nelson 7040
Attn: Manager Consents and Compliance

Email: mandy.bishop@ncc.govt.nz

Fax: (03) 546 0239

Contact Person: Mandy Bishop, Manager Consents and Compliance

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Signed

..... Date.../...../.....
Cr Brian McGurk
Chairperson Planning and Regulatory Committee
Nelson City Council

Introduction

Nelson City Council (the Council) thanks the Minister for Primary Industries for the opportunity to make a submission on the proposals for regulations under the Food Act 2014.

This submission covers the cost recovery proposals only, due at MPI by 20 February 2015. The Council will also submit at a later stage on all other proposals by 31 March 2015.

This submission has been prepared by the Council's staff. It has yet to be confirmed by the Council because of timing issues with Council meetings.

The Council will advise the Ministry when this submission is confirmed by the Council.

UNCONFIRMED

| Section | Questions: | Nelson City Council Comments |
|--------------|---|--|
| 7.2.1 | Do you feel that territorial authorities are able to develop cost recovery systems without an immediate requirement for regulations prescribing methodologies to be used? | <p>No. A Special Consultative Procedure typically takes three to four months. The regulations are to be consulted on again later in 2015 and take effect from 1 March 2016. The Regulations will inform the level to set fees and charges and they need to be finalised before the Special Consultative Procedure commences. Any increase in fees and charges needs to be decided by 1 July 2016 or in accordance with Section 205 (6) of the Food Act 2014 the increased charge can only commence from 1 July 2017.</p> <p>Councils are required to have budgets prepared for the Annual Plan process around October and finalised in February. Council will need to do this prior to the Consultative Procedure being completed and therefore risk that the actual cost recovery does not meet the budget.</p> <p>The Council anticipates the resourcing requirements to accommodate the changes will not be fully realised until the transition is in place for a reasonable time period. The Council strongly suggests the Ministry prescribes the fees to enable the Council to start charging the new fees immediately. These default fees can only be altered through a Special Consultative Procedure (or some other mechanism) that the Council could conduct at a time that better aligns with budgeting for the financial year.</p> |
| 7.2.3 | What, if any, issues do you think may arise from maintaining the status quo in relation to Crown funding for the development of standards? | Anything other than Crown funding would have implications for Councils to potentially assist in the collection of costs. This would add extra resourcing and administration costs on Councils. |

| Section | Questions: | Nelson City Council Comments |
|--------------|--|--|
| 7.2.5 | Do you agree that fees and charges are generally the most appropriate systems for cost recovery for services provided under the Food Act? Do you have any alternative suggestions? | The annual registration plus additional verification charges are good. Annual payments are common in other licensing regimes. The move to charge separately for verification (and compliance) makes the system more transparent with no cross-subsidies and also encourages better conformance to reduce costs. |
| 7.2.6 | Are there any methods in addition to management monitoring you can suggest to make sure that processes are delivered in a timely and cost-effective fashion? | If fees and charges are prescribed then monitoring Council's own set fees and charges becomes largely redundant. Councils wanting to set higher fees and charges through Bylaws will be automatically monitored through the Special Consultative Procedure or other mechanism. There will need to be clear and robust reasons to deviate from the default charges. |

UNCONFIRMED

7 Cost recovery

Note that the closing date and time for all responses to the cost recovery proposals is 5pm on 20 February 2015.

Key issues

The Food Act 2014 requires the Minister and MPI chief executive to take all reasonable steps to ensure that the direct and indirect costs of MPI in administering the Act that are not funded by the Crown are recovered.

Objectives

It is intended to identify services and activities that are undertaken by the Ministry that provide a private or industry good, and therefore are not Crown funded. Regulations are intended to:

- identify services that are not Crown funded because they constitute a private or industry good;
- establish appropriate charging mechanisms for cost recovery; and
- establish particular costs for these services.

Alternative approaches

This section identifies what MPI services should be subject to cost recovery when the Food Act comes into full effect, and the methods of cost recovery. We are interested to know whether you think these proposals meet the objectives identified above or if you have other suggestions.

7.1 What the Act says

7.1.1 General requirements under the Food Act and specific regulation-making powers

The Food Act (section 198) requires the Minister and MPI chief executive to take all reasonable steps to ensure that the direct and indirect costs of administering the Food Act that are not provided for by money funded by the Crown are recovered. That is, the Crown (taxpayer) funds, or partially funds, some functions, powers or services but others are to be paid for in whole or in part, by third parties (businesses, individuals) that use or benefit from these functions, powers or services.

The Food Act sets out the methods that can be used to recoup costs (via fees and charges of various types, levies, or combinations of fees, charges and levies). It provides for regulations to set and impose fees, charges and levies to recover costs for the activities and functions that are identified as appropriate for cost recovery.

MPI's cost recovery process operates within the framework provided by legislation and government guidelines. It also takes into account constitutional principles as set out in Parliament's Standing Orders and guidance received from reports of the Regulations Review Committee.

The Food Act articulates the principles that must be applied in setting fees and charges to recover costs. In determining the most appropriate method of cost recovery and its level, the Minister and Director-General must have regard to the following criteria, as far as is reasonably practicable:

- **Equity** – funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power or service.
- **Efficiency** – costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost.
- **Justifiability** – costs should be collected only to meet the reasonable costs (including indirect costs) of the provision or exercise of the relevant function, power, or service.
- **Transparency** – costs should be identifiable and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

7.1.2 Government guidelines

The Ministry has followed the guidelines in The Treasury's *Guidelines for Setting Charges in the Public Sector* (Treasury guidelines)¹⁰ and the Office of the Auditor-General's Good Practice Guide *Charging fees for public sector goods and services* (Auditor-General guide)¹¹.

Treasury guidelines

The Treasury guidelines outline policy considerations such as who should be charged a fee and whether a public entity should recover less than the full costs of providing a good or service.

The guidelines state that:

- charges should, in general, be set at the full cost of providing the service, where full cost includes all overheads and non-cash (such as capital charges), measured in accrual accounting terms;
- charges should not be excessive in relation to the costs incurred;
- charges can be set to vary by the location where the service is provided or by the time at which the service is provided but a balance needs to be struck between the gains from complex fee structures and the costs in terms of a loss of simplicity;
- the process for setting charges should be clear and appropriate;
- transaction costs in setting and collecting the charges should be kept as low as practicable;
- appropriate consultation with those affected should be undertaken when setting and changing the charges;
- there should be a robust basis for any charges; and
- there should be fair treatment for taxpayers, beneficiaries of the service and risk exacerbators.

¹⁰ *Guidelines for Setting Charges in the Public Sector*, The Treasury, December 2002.

<http://www.treasury.govt.nz/publications/guidance/finmgmt-reporting/charges>

¹¹ *Charging Fees for Public Sector Goods and Services*. Good Practice Guide. Office of the Auditor-General, June 2008. <http://www.oag.govt.nz/2008/charging-fees/>

Auditor-General guide

The Auditor-General guide directs public entities/government departments to apply three principles when setting fees for providing services to third parties:

- **Authority** – a legal authority to charge a fee for the services that a public entity is legally obliged to provide to third parties. The authority to charge for MPI's service provision is contained in the Food Act.
- **Efficiency** – services should be provided to the desired level of quality from a given quantity of resources, thereby achieving value for money. For service provision to be efficient, the Ministry needs to have an adequate understanding of the costs (both direct and indirect) of providing third party services, and have appropriate systems in place to monitor costs.
- **Accountability** – ensuring that the Ministry's processes for identifying costs and setting fees are transparent. The Ministry achieves this through consulting affected parties on any proposed fee changes and by separate disclosure of revenue and expenses for third party service provision through memorandum accounts.

7.1.3 Economic good principles

In economic terms, services can be characterised as public, industry, private or merit goods. Industry goods are also known as club goods. In practice there is often no clear delineation between the categories, and a product or service can have elements of all four. A key issue then becomes the degree to which the practical considerations of how costly it is to charge the user of a service outweigh the benefits of charging.

The following definitions have been adopted to help determine the most appropriate source of funding for services delivered to users:

- **Public good** – a good is considered public when excluding users from its benefits is either difficult or costly (it is non-excludable), and its use by one person does not detract from its use by another (it is non-rivalrous). In practice, pure public goods are rare. Many government-provided services share the characteristics of public goods to some extent. There is a good case for recovering the costs of a public good from the community as a whole by general taxation (i.e. by the provision of government funding for delivery of these services to users).
- **Industry good** – in the case of an industry good, users can be excluded from the benefits of use at low cost (it is excludable, unlike a public good), but its use by one person does not detract from its use by another (it is non-rivalrous). The key difference is that the ability to exclude users implies that it is feasible to charge for use. Charging industry members can be an efficient way of recovering costs.
- **Private good** – users can be excluded from benefits at low cost, and its use by one person conflicts with use by another (i.e. it is both excludable and rivalrous). There is a strong case for recovering the costs of private goods from those who benefit directly from their provision.
- **Merit goods** – are goods desired by the community as a whole at higher rate of consumption than if they were supplied at full cost. Merit goods may involve a mixture of Crown and third party funding, and the loss in public benefits from charging at full cost has to be significant.

7.2 Proposed regulations

7.2.1 Territorial authorities' fees and charges

Territorial authorities will set their own fees and charges for the registration, verification, compliance and monitoring activities that they carry out under the Food Act. These may differ from the proposed fees set out in this document, which are for functions and activities carried out by MPI.

However, the Food Act requires territorial authorities, when setting fees,

- to have regard to the principles of cost recovery set out in the Food Act;
- to not recover more than the reasonable costs incurred; and
- to undertake consultation in accordance with section 83 of the Local Government Act 2002.

It also provides that any increase in territorial authority fees cannot come into effect except at the beginning of the financial year; i.e. fees cannot be increased part-way through a financial year unless the persons, or their representatives, affected by the increase agree or substantially agree with the increase.

The Food Act provides (section 206) for regulations to be made that prescribe a methodology or framework for fee fixing to be applied by a territorial authority in fixing any fees. It is not intended to establish such a methodology or framework as part of this round of regulation development. Territorial authorities have considerable experience in establishing fees and charges for cost recovery purposes. Their general compliance with legal requirements is reviewed through audit processes required under the Local Government Act.

MPI will maintain an ongoing relationship with territorial authorities and has a capacity to review their performance in implementing the Food Act. Should concerns arise about matters such as consistency of fees and charges, the need for regulations prescribing method will be considered further. In the meantime, territorial authorities are able to draw on the information on methods contained in this document to inform their own processes.

What do you think?

- i. Do you feel that territorial authorities are able to develop cost recovery systems without an immediate requirement for regulations prescribing methodologies to be used?

7.2.2 Services provided by third parties

Where services such as sampling and testing, or verification of food control plans are provided in a contestable market situation, they will be paid for by the person requesting the service, with the price determined by negotiation between the parties under normal private contractual arrangements.

7.2.3 Process for determining areas for cost recovery

Services provided by MPI have been identified and assessed against the economic good principles outlined above to determine whether they should be treated as a public good (and

therefore Crown funded) or as a private, industry or merit good (and therefore funded through cost recovery). The services identified for cost recovery are listed in Table 11: Proposed fees and charges.

MPI has focused on establishing fees and charges where it will directly provide services from 1 March 2016. Further analysis of services enabled under the Food Act and their costs will be undertaken to ensure appropriate funding systems, including cost recovery, are in place for the future.

On that basis the service of maintaining and developing standards has been treated differently from the general process. This is a major function for MPI across its responsibilities, with different legislative provisions for funding the activity; for example, the Animal Products Act 1999 makes provision for fees and charges to fund this activity in relation to dairy products. The Food Act 1981 makes no comparable provision and the service has been Crown funded to date. We expect the further work on costs of establishing standards and the appropriate mechanisms for collection of costs from sectors through, for example, levies or annual fees to have been completed by the beginning of the 2016/17 financial year.

What do you think?

- ii. What, if any, issues do you think may arise from maintaining the status quo in relation to Crown funding for the development of standards?

7.2.4 Basis of cost recovery

Following the cost recovery policies and guidelines outlined above, the basis for charging for MPI activities in respect of private goods is as follows:

- Direct and indirect costs will be calculated and recovered for:
 - the management costs of each of the business groups directly involved with industry under the relevant Act;
 - MPI management and support services costs; and
 - MPI corporate overhead costs which include accommodation, equipment and communications.
- Direct costs will be fully charged to the functions and activities to which they relate. Indirect costs will be apportioned across all activities to which the core functions of the relevant MPI Group contribute, on the basis of personnel (numbers), IT costs (e.g. numbers of work stations), or other cost drivers as appropriate.
- Functions and activities that can be divided into homogeneous units and where there is little variation in the cost of providing the unit of activity will be charged at an average cost (direct and indirect) per unit of output. For these functions, fixed fees and annual charges will be used to assist in minimising transaction costs and providing certainty over fees and charges.
- Where there is a large variation in the cost of individual outputs (for example, in the time taken to perform the function), hourly rates will be used.
- Where hourly rates are used, disbursements covering items such as (but not exclusively) travel, accommodation, and communication will be charged at cost.

Regulations will:

- attach fees and charges to specific units of activity;
- set fixed fees and charges based on the average full and reasonable costs of carrying out the activity;

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- set annual charges on the basis of the costs of performing the functions allocated amongst the persons that will be paying the charge;
- set time-based charges on the basis of fixed and variable costs (e.g. salaries and operating costs); and
- set other charges (disbursements) on the basis of actual and reasonable costs incurred in carrying out the activity.

7.2.5 Cost recovery method(s)

Allowable cost recovery methods

The Food Act provides for the following methods of cost recovery:

- fixed fees or charges;
- fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis;
- use of a formula or other method of calculation for fixing fees and charges;
- the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function;
- estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function;
- refundable or non-refundable deposits paid before provision of the service or performance of the function;
- fees or charges imposed on users of services or third parties;
- levies;
- any combination of the above.

Criteria for selecting preferred option(s)

In deciding on the appropriate charging method, the following criteria will be considered:

- the amount charged to each payer should generally be at a level commensurate with the benefit they receive from the provision of the activity, or the individual risk levels for each payer;
- the charging mechanism should not undermine the policy intent by creating any perverse incentives; and
- administrative simplicity, taking into account:
 - the potential inefficiency of collecting small user charges (establishing cost recovery systems for invoicing and receiving payments may cost more than the amount to be collected); and
 - the need to identify a chargeable unit and a unique payer.

Proposed methods

The options for establishing cost recovery have the following characteristics:

- Fixed fee – may over-recover or under-recover costs for time-based activities, and therefore create cross-subsidies. However it would be simple to administer, minimise transaction costs and provide certainty for payers. A fixed fee is likely to be appropriate for simple tasks that don't vary, such as listings.
- Fixed fee plus hourly charge – includes a fixed component to cover costs common to every transaction (such as standardised administrative processing) and an hourly charge to

reflect the individual effort required for each transaction. Such a costing regime is more complex to administer than a fixed fee only but not unduly so.

- Levies – these are used where costs cannot be attributed to individuals (separate beneficiaries are unable to be identified) because no specific goods or services are provided. This is not an appropriate cost recovery mechanism for private goods.

It is proposed to use mainly fixed fees and annual charges, as these are simpler to apply and therefore have a lower administrative cost:

- Fixed fees will be based on an assessment of the standard, average time required to carry out the function or activity, multiplied by the set hourly rate.
- Fixed fee plus hourly rate – where the time required for a task varies, the charge will be an initial application fee plus the actual time taken beyond the first hour at the set hourly rate.
- Hourly rate plus actual expenses – where costs are incurred for activities carried out at the request of a business operator or other person, or as a result of an act or omission of a business operator or person, it is proposed that a charge will be incurred at the appropriate hourly rate plus the costs of any actual and reasonable expenses incurred.

What do you think?

- iii. Do you agree that fees and charges are generally the most appropriate systems for cost recovery for services provided under the Food Act? Do you have any alternative suggestions?

Calculation of costs

Process

The Audit Office has set out guidelines to be followed in establishing the cost of providing a service or undertaking an activity that is to be charged for. They involve the following steps:

- identification of the chargeable outputs;
- estimating the volume of these outputs to be produced during a period;
- identification of the resources required to produce these outputs and the associated costs; and
- calculation of cost for each unit of output.

Included costs

Both direct and indirect costs need to be taken into account, and fees need to cover all the costs involved, in granting an approval, registration, or recognition, and monitoring of compliance including:

- providing the administrative systems and processes for assessment, review, cancellation and suspension;
- assessment of applications for new approvals or registrations, or exemptions;
- review, cancellation or suspension of existing approvals;
- maintenance of any associated public registers; and
- monitoring compliance with requirements.

Calculated fees

The total direct and indirect costs of MPI's approval, recognition and registration functions have been built into an hourly rate as set out in the table below.

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Table 9: Factors for hourly rate calculation

| Chargeable costs (GST exclusive): | | |
|--|---|----------------|
| | | 201X/1Y |
| Personnel | | |
| Operational | | |
| Overheads | | |
| Other Directorates | | |
| Total | | \$ |
| Number of employees (FTEs ¹²): | | |
| Billable Hours: | | 201X/1Y |
| Working Year (Days) | | Xxx |
| Less: | | |
| Statutory Holidays | X | |
| Annual Leave | X | |
| Sick leave | X | |
| Courses & Conferences | X | |
| Technical Training | X | |
| Net work days p.a. | | Xxx |
| Productivity assumption | | xx% |
| Annual Billable Hours per FTE | | Xxxx |
| Total Billable Hours | | (xxx FTEs) |
| Hourly Rate (GST excl) | | \$xxx.xx |
| Hourly Rate (GST incl) | | \$xxx.xx |

Assessment charges on hourly basis

Where an assessment charge on an hourly basis is specified, that charge is determined as shown in Table 10 for each hour (or final part-hour) beyond the first hour spent on assessing the matter concerned.

¹² Full time equivalent

Table 10: Assessment charges on hourly basis

| Category | | Proposed Fee (\$) (GST exclusive) |
|----------|--|--------------------------------------|
| (a) | For each hour (excluding final part-hour) spent by an officer or employee of MPI | |
| | For each 15-minute block in final part-hour | |
| (b) | For each hour (excluding final part-hour) spent by a person engaged by MPI to assess the matter concerned who is not an officer or employee of MPI | |
| | For each 15-minute block in final part-hour | |

This rate has then been applied to particular functions on the basis of the estimated time required to undertake them. The resultant fees are shown in Table 11.

Table 11: Proposed fees and charges

| | Service area | Type of fee | Fee (GST exclusive) | When fee payable and by whom |
|---------------------|--|----------------------------------|--|--|
| <i>Registration</i> | | | | |
| 1 | Application for, assessment of, and registration or variation of custom food control plans | Application for registration fee | \$348.75 per application plus \$155.00 per hour in excess of 1 hour processing application | \$348.75 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 2 | Application for, assessment of, and registration or variation of food control plans based on a template or model issued by the chief executive | Application for registration fee | \$193.75 per application plus \$155.00 per hour in excess of 1 hour processing application | \$193.75 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 3 | Application for, assessment of, and registration or variation of registration of business subject to national programme 3 | Application for registration fee | \$116.25 per application plus \$155.00 per hour in excess of 1 hour processing application | \$116.25 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |

| | Service area | Type of fee | Fee (GST exclusive) | When fee payable and by whom |
|--------------------|---|----------------------------------|--|--|
| | | Disbursements | Actual cost | |
| 4 | Application for, assessment of, and registration or variation of registration of business subject to national programme 2 | Application for registration fee | \$116.25 per application plus \$155.00 per hour in excess of 1 hour processing application | \$116.25 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 5 | Application for, evaluation of, and registration or variation of registration of national programme 1 | Application for registration fee | \$116.25 per application plus \$155.00 per hour in excess of 1 hour processing application | \$116.25 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 6 | Application for, evaluation of, and registration or variation of registration of business as an importer of food | Application for registration fee | \$116.25 per application plus \$155.00 per hour in excess of 1 hour processing application | \$116.25 payable by the applicant on application for registration or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| 7 | Application for, assessment of, and granting of an exemption | Application for exemption fee | \$348.75 per application plus \$155.00 per hour in excess of 1 hour processing application | \$348.75 payable by the applicant on application for exemption and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| Approvals | | | | |
| 8 | Application for, assessment of, and approval or variation of approval of laboratories | Application for approval fee | \$193.75 per application plus \$155.00 per hour in excess of 1 hour processing application | \$193.75 payable by the applicant on application for approval or variation and any remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| Recognition | | | | |
| 9 | Application for, assessment of, and recognition, variation, or | Application for recognition fee | \$193.75 per application plus \$155.00 per hour in excess of 1 hour processing application | \$193.75 payable by the applicant on application for recognition, variation or renewal and any |

| | Service area | Type of fee | Fee (GST exclusive) | When fee payable and by whom |
|---------------------|--|---------------------------------------|---|---|
| | renewal of agency or person as a recognised agency or recognised person under Subpart 1 of Part 4 of the Food Act 2014 | | | remainder payable within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| Verification | | | | |
| 10 | Verification inspection and audits | Verification, inspection or audit fee | \$155.00 per hour | Payable by the operator of the business subject to verification, inspection or audit within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| Compliance | | | | |
| 11 | Issue of improvement notice, including development of the notice, by food safety officer | Fee for notice | \$120.00 per notice plus \$120.00 per hour for development in excess of 1 hour of development and issue | Payable by the operator of the business subject to improvement notice within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 12 | Application for review of issue of improvement notice | Application for review fee | \$155.00 per application plus \$155.00 per hour in excess of 1 hour processing application | \$155.00 payable by the applicant on making application for review and any remainder payable within 20 working days of receipt of written demand for payment |
| 13 | Application for, compilation of, and issue of statement of compliance under section 290 | Fee for statement | \$155.00 per application plus \$155.00 per hour in excess of 1 hour processing application | \$155.00 payable by the applicant on making application for statement of compliance and any remainder within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 14 | Issue of food recall notice by chief executive | Fee for directed recall | \$155.00 per notice plus \$155.00 per hour for development in excess of 1 hour of development and issue | Payable by the operator of the business subject to the recall notice within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |

| | Service area | Type of fee | Fee (GST exclusive) | When fee payable and by whom |
|----------------------|---|--------------------|---|---|
| <i>Imported food</i> | | | | |
| 15 | Clearance of imported food | Fee for clearance | \$120.00 per clearance permit plus \$120.00 per hour for processing clearance | Payable by the operator of the business responsible for the imported food within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |
| 16 | Administration of imported food defined in Regulations made under the Act as being of increased regulatory interest | Administration fee | \$120.00 per hour spent on administration | Payable by the operator of the business responsible for the imported food within 20 working days of receipt of written demand for payment |
| | | Disbursements | Actual cost | |

Note: all rates are exclusive of goods and services tax (GST).

Disbursements

Disbursements where relevant will be charged at actual cost.

7.2.6 Monitoring and review of fees and charges

The Food Act (section 202) requires that the Minister must review levels and methods of cost recovery at least once in every three year period. As noted earlier, MPI intends to undertake a general review of the systems it uses for determining systems of cost recovery that is expected to have an impact on the nature of fees in 2016/17.

MPI is undertaking a general review of the basis for funding its services across all sectors, including whether services should be funded by the Crown or through cost recovery from third parties such as businesses and individuals. It is proposed that existing arrangements for Crown funding for some services, such as standard setting, should be integrated as far as possible with that review in order to minimise disruption to affected businesses.

MPI's administration of the services for which it seeks cost recovery is subject to performance standards agreed with the Minister. An example of such a standard is the requirement that 85 percent of all applications for registrations are to be completed within 20 working days.

Where hourly rates are charged for services the delivery of those services is actively monitored. This requires work to be completed within accepted time periods and any significant variation from those time periods will require explanation from the relevant personnel.

What do you think?

- iv. Are there any methods in addition to management monitoring you can suggest to make sure that processes are delivered in a timely and cost-effective fashion?

7.2.7 Exemptions, waivers and refunds of fees and charges

Regulations are proposed under section 208 of the Food Act that set out the circumstances in which an exemption, waiver or refund of fees, charges or levies may be made. Those proposals are contained in section 10 Exemptions of this document.