

14. PROPOSED AMENDMENTS TO COUNCIL FEES AND CHARGES

General Manager responsible:	General Manager Corporate Services, DDI 941-8540
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PURPOSE OF REPORT

1. This purpose of this report is to seek Council approval to:
 - The fees and charges to be made by the Council under Section 12 of the Local Government Act 2002; and
 - The draft fees for those requiring a special consultative procedure and release of the statement of proposal for consultation;
 - Grant delegated authority for the appropriate General Manager to review and set some fees.
2. If this report is adopted the fee schedule under the first bullet-point will be adopted and those under the second point will be available for submission by the public and then confirmed by the Council on or before 30 June 2006.

EXECUTIVE SUMMARY

3. This is a full list of Council charges. Some fees are recommended to change, some to continue unchanged. In each case the prices have been recommended by relevant business units for consideration by the Council. In the case of dog control fees, the current charges are listed. The report to recommend the charges for 2006/07 has yet to be presented to the Council.
4. The fee changes in this report reflect inflation adjustments, or market prices and align with:
 - Revenue and financing policy considerations; and
 - Service delivery policies or activity management plans as contained in the Draft LTCCP.
5. In the past only the fees which are changed have been formally approved in each year. This has caused uncertainty and it has been difficult to determine the current price list for all service charges.
6. Excluded from this list of fees and charges are:
 - Rates, as they are set by the LTCCP process;
 - Development contributions, as they are set by the Development Contributions Policy within the LTCCP;
 - Financial contributions and resource consent works and services conditions, where they are charges as a result of work done for a subdivision;
 - Rents, commissions and recoveries under a lease, rent agreement, or licence to occupy as these are set by negotiation with the tenant or by Council resolution;
 - Cost recoveries by the Council under contract provisions;
 - Fees, charges and taxes set by other entities, such as the Government, where the Council is a collecting agent. In most cases the Council may retain all or part of the charge; and
 - The specific charge for any cost recovery fee as these are not known until the transaction.
7. The fees and charges apply to the whole city, including Banks Peninsula, and commence, generally, on 1 July 2006, although some fees are noted in Appendix A to commence later.
8. The process for the consideration of fees was reported to the Council on 17 February 2006 as part of the Revenue and Financing Policy consideration. The revenue budgeted for fees is included within the draft LTCCP figures. The Council needs to give effect to the charges by authorising the charge or any amendments. The Council has many charges, and it has been decided that they are individually below a level of significance for specific inclusion in the LTCCP. This year it is proposed that the Council will be asked to approve the fees, both amended and unchanged, by ordinary resolution.

9. From a fee setting perspective, there are two types of fees:
 - Charges for goods, services and amenities provided by the Council in reliance on the Council's general power under Section 12 of the Local Government Act 2002, (and Section 150(6) of that Act) where this allows fees to be set by ordinary resolution; and
 - Fees and charges payable for a certificate, authority, approval, permit or consent from or inspection by the Council in respect of a matter provided for in a bylaw or under any statute other than the Local Government Act. These must be prescribed in the bylaw or by using the special consultative procedure under Sections 150(1) and (3) of the Local Government Act. Such fees or charges include those payable under such statutes as the Building Act, Resource Management Act, and the Sale of Liquor Act.
10. For the Section 12 fees, the adopting resolution proposed below concludes the process, the fees are then set.
11. For the fees requiring a special consultative procedure, the following process is proposed:
 - A Statement of Proposal, including the fees schedule and a Summary of Information, needs to be adopted by the Council for release for consultation;
 - Public notice is given that the Statement of Proposal is available for submission;
 - Submissions would be heard by the Council, say at the LTCCP hearings; and
 - The fees schedule (including any changes thereto) is then adopted by the Council in June 2006.
12. In addition to adopting the fees, approval is sought for delegated authority to be granted to the appropriate General Manager to:
 - Set the prices for all retail sales items, as these are impractical to detail and are subject to periodic change;
 - Determine the charge where the charge is for actual cost recovery;
 - Set prices for hire of venues and equipment where not included in the fees schedule;
 - Set prices for recreation programmes and events tailored to the customer needs; and
 - In the case of charges for pools, set prices where the increase is within the inflation adjustment limits, if any, set for each charge.
13. Where the authority is sought under the last bullet-point, it is noted on the attached schedule and the delegation is restricted to that charge type.
14. Where reference is made to actual costs recovered, this includes any normal internally generated costs.
15. In addition, it is recommended that the Council consider granting delegated authority to allow a General Manager to remit any charge where there are reasonable grounds, such as extreme financial hardship.
16. Remission would not be available to a class of customer such as charities. If a case could be mounted for differential pricing to reflect the status of customers then that should be reflected in the price schedule and not actioned by remission. This move would strengthen the accountability to achieve revenue targets by encouraging more timely and market orientated price reviews, knowing that special needs, where appropriate, can be catered for.

FINANCIAL CONSIDERATIONS

17. This schedule of charges gives effect to the revenue budgeted in the LTCCP. As inflation is built into the revenue budgets the fees need to be adjusted annually to ensure the revenue is achieved. Should a change to this schedule be made by the Council, or following a public submission, it may give rise to a consequential change to the draft LTCCP. The consideration of submissions made in respect of fees and charges should be made at the same time as submissions on the LTCCP are considered.
18. Most of the charges are set under Section 12 of the Local Government Act 2002, the general power clause. Where the charges are set under a Council bylaw or under an Act where the authority to set fees is not specific, a special consultative procedure is required under Section 150.
19. In order to address these issues, it is intended that the time frame and process for adopting the fees follow the special consultative procedure, and this ensures the public have an opportunity to make submissions. These would be heard at the same time as the LTCCP submissions and consequential adjustments to the budgets can be made.
20. The fees and revenue generated have been budgeted for following consideration of the issues under the requirements of the Revenue and Financing Policy as contained in the Draft LTCCP. The Council should make reference to that policy in adopting these fees.

STAFF RECOMMENDATIONS

It is recommended that:

- (a) The schedule of fees listed in Appendix A, set by the Council under Section 12 of the Local Government Act 2002, be adopted.
- (b) The fees, included in Appendix B, the Statement of Proposal, and Summary of Information be approved in draft and that these be released for consultation, including:
 - Statement of Proposal, including Appendix B, the fees schedule
 - Summary of the Statement of proposal
- (c) The Council consider the submissions from the public in relation to Appendix B fees at the same time as the LTCCP submissions and that the fees scheduled together with any changes arising from the submissions, be adopted at a Council meeting in June 2006 (or later).
- (d) Delegated authority be granted to the relevant General Manager to:
 - Set the prices for all retail sales items;
 - Determine the charge where the charge is for actual cost recovery;
 - Set prices for hire of venues and equipment where these are not scheduled;
 - Set prices for recreation programmes and events tailored to the customer needs; and
 - Adjust limits, if any, as noted for each charge in the schedule (Appendix A);
 - Remit any charge, where in the opinion of a General Manager, they consider it is fair to do so.

subject to:

- Where the intention to apply delegated authority is noted on the schedule (Appendix A) (other than for retail prices) the delegation being restricted to that charge type.
- Where reference is made to actual costs recovered, this includes any normal internally generated costs.
- Remission of charges not being granted to a class of applicant (eg charities generally) as this should be taken into account in setting the scale of fees.

BACKGROUND ON PROPOSED AMENDMENTS TO COUNCIL FEES AND CHARGES

21. The Council may set fees and charges for services to the public. The statutory authority is for fee setting is:
 - For most charges, under the general powers of Section 12 of the Local Government Act 2002;
 - For fees under bylaws or empowering Acts such as the Building Act, Resource Management Act, or Section 150 of the Local Government Act 2002.
22. The Council may delegate the authority to set fees or make recovery charges with or without constraints apart from the fees set under the special consultative procedure.
23. This report aims to both set the fees for the next year and put in place a process for fee review under delegated authority for some fees, where practicable, and for those noted on Appendix A.
24. It is proposed that the fees be reviewed at least annually by a single process (with exceptions noted below), and where necessary, adopting them in draft now and making them available for public submissions. It is intended that the fees subject to consultation be confirmed in June 2006 at the same meeting as the LTCCP adoption.
25. It is intended that the total fee schedule be permanently included on the Council web site as a single source of current fee information. In the past only the changes were recorded in the Annual Plan (and LTCCP) and only some fees included in the web pages for some Council activities. This led to inconsistent treatment of fees.
26. Secondly, the fees review has been held at various times for different Council activities. In the future and as far as practicable, there should be consistent review and consideration for fees.
27. Two exceptions to this process are noted:
 1. Dog and animal control fees:

There is a significant review of charges following the proposed micro chipping, the National Dog Database (NDD) and incorporating all the BPDC dogs.

Animal Control/Dogs fees will be adopted separately under the Dog Control Act as part of a separate report to go to the Council in the next 3-4 weeks identifying options for fees and also the recovery of the NDD levy and working dogs in BPDC.
 2. Housing rentals – this will be the subject of a separate report in the near future.
28. Some fees charges and taxes are excluded from this process as they are set by other entities and processes. Where applicable, they are collected by the Council and are included in the revenues of the council as shown in the LTCCP.

Fee Setting

29. The fees as set out in the schedule Appendix A are recommended for adoption by the Council or for those in Appendix B, adopted in draft. Generally they will apply from 1 July 2006. However some apply from later dates as this is the most convenient due to the seasonal use attributes and notice requirements. The level of fees is that recommended by the responsible Unit Manager within the context of the Activity Management Plans and has not been determined by Corporate Finance.
30. The fee changes recommended, range from circumstances where the fee is cancelled, to restructuring the service charge, through to continuing the current charge, to substantial review of the charge in line with the level of the proposed property rate increase.

31. In setting fees, the Council must have regard for Revenue and Financing Policy issues:
- The costs to produce the service
 - The direct benefit portion of those costs – this sets the maximum revenue to be targeted
 - Any pricing policy issues such as:
 - customer demand, and how price will influence this
 - price as a barrier to access to the service by the customers
 - the underlying service objective – for example, irrespective of the cost, the Council may have determined that the service should be free to customers etc, or alternatively should be fully user pay
 - Legal or audit guidelines on the maximum charge that is appropriate.
31. The former issues are covered under the Revenue and Finance Policy in the adopted Draft LTCCP.
32. For fees set under section 150, there is a constraint in sub-section 150 (4):
- “The fees prescribed under subsection (1) must not provide for the local authority to recover more than the reasonable costs incurred by the local authority for the matter for which the fee is charged.”*
33. This constraint is summarised in the extract from a recent Audit Office report on local government regulatory services (but relevant to all fees):
- “The pricing structure adopted should be clear, and consistent with the local authority’s strategic objectives for service delivery, its fee structure and its charging policy, and must comply with all the relevant legislation regarding local authority fees”*
- and*
- “Given the monopolistic nature of regulatory functions, controls are needed to prevent unreasonable price charging. The manner for pricing different components should be designed to ensure that the interests of the community and other stakeholders are protected”*
34. In addition 36(4) of the Resource Management Act requires:
- “When fixing charges referred to in this section, a local authority **shall have regard to the following criteria:***
- (a) *the sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates:*
 - (b) *a particular person or persons should only be required to pay a charge-*
 - (i) *to the extent that the benefit of the local authority’s actions to which the charge relates is obtained by those persons as distinct from the community of the local authority as a whole; or*
 - (ii) *where the need for the local authority’s actions to which the charge relates is occasioned by the actions of those persons; or*
 - (iii) *in a case where the charge is in respect of the local authority’s monitoring functions under section 35(2)(a) (which relates to monitoring the state of the whole or part of the environment), to the extent that the monitoring relates to the likely effects on the environment of those persons’ activities, or to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole,-*
and the local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act-
 - (c) *in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or*
 - (d) *where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties.”*
35. The attached fee schedule includes these requirements.

Delegated Authority to Act

36. For obvious practical reasons this report recommends that the Council grant delegated authority to the appropriate General Manager, to adjust some fees and charges without further reference to the Council. The circumstances of the delegations recommended are limited to:

- set the prices for all retail sales items generally as these are impractical to detail and are subject to periodic and possibly urgent change;
- determine the charge where the charge is for actual cost recovery as the amounts will not be known until the service transaction occurs;
- set prices for hire of venues and equipment where these are not scheduled in Appendix A, or where there is a variation of the standard terms of hire that warrant a variation;
- set prices for recreation programmes and events tailored to the customer needs, say for instance, a school group with special needs requiring a level of response and service materially different from the standard;
- set prices for pools where the increase is within the inflation or other adjustment limits, if any, set for each charge, as noted on the schedule Appendix A;
- generally to remit any charge where in the opinion of a General Manager, it is fair to do so, and following an application in writing,

subject to:

- where this authority is granted, for other than retail prices, it is noted on the attached schedule and the delegation being restricted to that charge type;
- where reference is made to actual costs recovered, this includes any normal internally generated costs;
- remission of charges not being granted to a class of applicant (eg charities generally) as differential pricing to reflect the status of the customer should be taken into account in setting the scale of fees.

37. In all cases where the fee is amended either under delegation or by Council resolution, the fee schedule on the public access internet site shall be updated.

OPTIONS CONSIDERED

38. The Council may consider alternative fees to those recommended. Any significant change will impact on the revenue budget in the draft LTCCP. The consequential adjustments and impact on rates revenue should be made under the LTCCP.

39. The Council may reserve more fee setting to itself rather than delegate. The outcome will be more detailed reports and in the case of retail prices, delays impacting on trading levels. There is a practical level of fee setting that balances the community's interests and the ratepayers' interests and the implementation of the Activity Management Plans.