

Full Council

2 May 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [2]

Department: Property & Infrastructure

Title | Taitara: Outdoor Dining Rental & Fees Proposal

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to consider:

1. Establishing the annual rental payable for Outdoor Dining (*previously Tables & Chairs*) areas to align with independently assessed market rentals. Market rentals to be reviewed three-yearly in alignment with the new three-year licence format.
2. Setting fees associated with Outdoor Dining areas, such as applications, variations, assignments, to better acknowledge Council's actual and reasonable costs.

Executive Summary | Whakarāpopototaka Matua

The annual licence fee (*herein referred to as the "annual rental"*) was last reviewed in 2019 and deferred in the intervening years due to the implications of COVID-19. A comparison to the current market rentals was provided at the time. It is proposed to increase the annual market rental, payable for Outdoor Dining areas, to align with current market rentals. An alternative staged increase is provided as an additional option to lessen the quantum of the increase.

The revised and increased Council fees for administering Outdoor Dining areas are proposed, with the intention that they better acknowledge the Council's reasonable costs.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** the increase in annual rental to reflect current market rentals; and
3. **Approve** the setting of fees associated with the actions and administration of outdoor dining areas and licences.

Prepared by:



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19 March 2024

Reviewed and Authorised by:



Name: Tony Avery
Title: GM Property & Infrastructure
2 April 2024

Context | Horopaki

1. Outdoor dining areas in public spaces make an important contribution to the quality of public places in town centres by providing an active street frontage that is vibrant, dynamic, comfortable and attractive. They provide a space for social interaction and the opportunity to withdraw from pedestrian movement in the street and rest while observing street activity.
2. The Queenstown Lakes District Council retains control over outdoor dining Licences in public spaces to ensure that pedestrian flow is maintained and that visual amenities are not compromised.
3. They also provide restaurant, café and licenced (*alcohol*) premises owners with the opportunities of extending their businesses and promoting patronage with a more visible presence.

Annual Rental

4. The annual rental for outdoor dining areas has remained unchanged from its inception in 2006 until the only increase in 2019. Due to COVID-19, the 2019 increases were not fully applied or temporarily waived. For most outdoor dining areas, the increased rent has only been applied over the last year.
5. With the recent town centre upgrade, there are significant benefits that will be experienced by the licensees and these are able to be determined by an independent valuation. The valuation assessment of outdoor dining areas is based on 30% of the indoor rental of adjoining properties across a defined area. This evaluation method is standard hospitality practice. By utilising the average rental across a defined area removes any irregularities that may be present due to unique characteristics and provides assessment of a locality factor.
6. Below is a table summarising the current rental set in 2019 (*referred to as a fee at the time*), an assessment of the market rental in 2019, and an assessment of the current market rental in 2024. The definition of the areas is shown in **Attachment A**.

<u>Location</u>	Current Fees 2019 (Rental) (\$/m²)	Market Rental 2019 (\$/m²)	Market Rental 2024 (\$/m²)
The Mall	\$200	\$600	\$600
Lakefront Reserve/Marine Parade	\$160	\$550	\$600
Beach & Rees Street	\$140	\$350	\$550
Shotover & Lower Brecon Streets	\$140	\$350	\$450
Camp Street & Cow Lane	\$140	\$400	\$450
Remaining Queenstown Pavements	\$140	\$200	\$250
Arrowtown - Buckingham St	\$70	\$140	\$250
Remaining Arrowtown Pavements	\$70	\$90	\$175
Wānaka Lakefront	\$100	\$160	\$225
Remaining Wānaka Pavements	\$70	\$130	\$125
Glenorchy	\$35	\$35	\$50

7. The current market rentals, compared to those currently levied by Council, would see increases from 43% in Glenorchy, ranging up to 293% in Beach and Rees Street. Arguably, both Beach and Rees Street have benefited considerably with the changes to the town centre, which is reflected in the independent valuation (**Attachment B**).
8. Additional income derived from the rental increase recognises Council’s Revenue and Financing Policy, which seeks maximum possible return from assets involved, and recognises the use of public space for commercial benefit.

Licence and Administration Fees

9. In addition to the commercial rental context above, there are also fees and costs associated with the administration of outdoor dining areas, such as applications and actions relating to licences that may be in place. The table below identify the various fees that are existing and proposed, along with the rationale to explain the increase.

Fee	Existing	Proposed	Rationale
New Application	250	450	Council officers can reasonably spend in excess of eight hours considering a new application, and this includes site visits, analysis, report writing and input of legal to prepare documentation. The proposed fee is still considered to be low, albeit an increase towards reflecting the realistic time and costs spent.
Re-application	0	250	Annual re-applications have in essence historically been approached as an automatic rollover process. Transitioning to an up to three-year Licence, will mean that an assessment and consideration occurs, in addition to a proper recommendation and legal agreement being prepared. The proposed fee is considered to be low considering the actions that will be required.
Amendment	100	250	Amendments and revisions are quite common, and can often require just as much, if not more time to resolve than a completely new application. Because a Licence Agreement needs to be varied, legal input further adds to the expense.
Assignment	-	140 plus Councils Legal Fees	Assignments are common, and in addition to the time of Council staff, the involvement of Council’s lawyers is relevant and must be covered.
Bond	\$50 per square metre	\$100 per square metre	Bonds are not typically required. Although if they are necessary to offset a potential cost to Council or ensure performance, they need to be relevant to the potential cost, noting that licence areas can be quite small.

Analysis and Advice | Tatāritaka me kā Tohutohu

10. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002. The options have been separated under their respective headings.

Annual Rental

11. **Option 1** Council increases rental to market rates (Market Rental 2024) for new applications from 1 July 2024 and for existing licence holders from expiry of current term.

Advantages:

- Council will receive increased income from licence holders, providing additional funds towards Council's operating expenses and capital expenditure.
- Rental will reflect the current commercial and financial gains being procured from the public space by private entities.

Disadvantages:

- Some licence holders will be concerned with the quantum of the increases.
- May result in some licensees cancelling their licences or reducing the applicable area.
- May result in a reduction of public dining and a lessening of vibrancy and social cohesion.

12. **Option 2** Maintain the rental at the rates established in 2019.

Advantages:

- Will preserve a similar level of public dining, ambience and activity on public land that is currently being experienced.

Disadvantages:

- Council will not receive a level of rental income assessed for the use of public spaces, currently benefiting private commercial enterprises.

13. **Option 3** Council provides a two-step rental increase, with rental for new and existing licences increasing to 75% of market rental by 31 December 2024 and to full assessed market rental by 1 July 2025.

Advantages:

- Council will receive increased rental income.
- Licencees will be able to better forecast rental increases.

Disadvantages:

- Council will not immediately receive a level of rental income assessed for the use of public spaces, currently benefiting private commercial enterprises.
- May result in some licensees cancelling their licences or reducing the applicable area.
- May result in a reduction of public dining and a lessening of vibrancy and social cohesion.

14. For annual rentals, this report recommends **Option 1** for addressing the matter because Council will receive rental funds for the use of public space, currently being utilised for commercial benefit.

Licence and Administration Fees

15. **Option 1** Council increases the licence and administration fees.

Advantages:

- The current fee settings are low and not reflective of the time and actions necessary to administer outdoor dining areas.
- Less of a financial burden to Council, to consider and administer outdoor dining area and associated requests/actions.

Disadvantages:

- Some licence holders may be concerned with the increase in costs.

16. **Option 2** Maintain the licence and administration fees at the level established in 2020.

Advantages:

- Existing licence holders and applicants may likely prefer the fees as set in 2020, given they are less than those now proposed.

Disadvantages:

- Council will effectively be subsidising actions necessary consider and administer requests for commercial outdoor dining areas.

17. For licence and administration fees, this report recommends **Option 1** for addressing the matter because the increases are not unreasonable and better acknowledge the time/costs of such actions, which should be self-funded for the greater part.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

18. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2021 because it proposes a change to an existing policy for a defined number of businesses (*approximately 50*) in the district.
19. The persons who are affected by or interested in this matter are the current licence holders.

Māori Consultation | Iwi Rūnaka

20. No specific iwi consultation has been undertaken.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

21. This matter relates to the Strategic/Political/Reputation risk category. It is associated with RISK10056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.

22. The approval of the recommended option will allow Council to avoid the risk. This will be achieved by implementing a program of independent oversight to determine appropriate market rentals.

Financial Implications | Kā Riteka ā-Pūtea

23. The recommended option of establishing market rentals at the 2024 assessment rate, will provide additional revenue to Council. Any other option would lessen income and result in the shortfall coming from rate payer funding and not recognise a user pays model.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

24. The following Council policies, strategies and bylaws were considered:

- Reserves Act 1977
- Revenue and Financing Policy
- Tables & Chairs Policy 2020

25. The recommended option is consistent with the principles set out in the named policies.

26. This matter is not included in the Long Term Plan/Annual Plan. The rental income derived from the licences will aligns with the Council's Revenue and Financing Policy

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

27. Queenstown Lakes District Council has authority to administer and regulate the use of Public Places within the District.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

28. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. Public spaces should be available for all people to enjoy and where the benefits of the space are being accrued by one particular party, it is incumbent upon them

to compensate for the privilege. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

29. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

[Attachments | Kā Tāpirihaka](#)

A	Queenstown Town Centre – Outdoor Dining Areas
B	Bayleys Rental Valuation