



Statement of Proposal

AMENDMENTS TO THE FOOD ACT FEES AND CHARGES

Commencing 1 July 2022

1. Nelson City Council's proposed amendments to the Food Act Fees and Charges

Nelson City Council (**Council**) would like to know what you think of the proposed amendments to the fees and charges relating to registration, verification, compliance and monitoring activities for food businesses. The current fees and charges came into effect on 1 December 2021, the first time there have been changes since these charges were introduced in 2016.

Council has reviewed these fees and charges and is proposing to increase charges by the Consumer Price Index (4.9%). We want to know what you think of the proposed changes. In making decisions on this proposal, Council will be taking account of all submissions made.

Paper copies of this document are available at the Council's Customer Service Centre and in Nelson libraries.

2. The Proposal

Detailed analysis of the issues and options is provided in section 4 of this proposal. The fees and charges schedule with proposed changes are identified in the table below:

Activity	Current charge	Proposed charge (increase charges by CPI)
New Registration Food control plan	\$255 initial fee Plus \$162 per hour after the first 1½ hours	\$267 initial fee Plus \$170 per hour after the first 1½ hours
New Registration National programme	\$162 initial fee Plus \$162 per hour after the first hour	\$170 initial fee Plus \$170 per hour after the first hour
Renewal	\$81 initial fee Plus \$162 per hour after the first ½ hour	\$85 initial fee Plus \$170 per hour after the first ½ hour
Amendment to Registration	\$81 initial fee Plus \$162 per hour after the first ½ hour	\$85 initial fee Plus \$170 per hour after the first ½ hour

Activity	Current charge	Proposed charge (increase charges by CPI)
Voluntary suspension	\$81 initial fee Plus \$162 per hour after the first ½ hour	\$85 initial fee Plus \$170 per hour after the first ½ hour
Verification	\$162 per hour	\$170 per hour
Compliance	\$162 per hour	\$170 per hour
Monitoring (where there is compliance)	No charge	No charge

Process for consideration

This Statement of Proposal to amend the Food Act fees and charges has been prepared in accordance with the Food Act 2014, sections 198 and 205 and the Local Government Act 2002 (LGA), sections 83 and 150. Section 205(2) of the Food Act requires Council to use the special consultative procedure when fixing fees to recover costs of registration, verification, compliance and monitoring activities.

The LGA provides that the special consultative procedure must include:

- a) A statement of proposal (and a summary of it if required) being made as widely available as practicable as a basis for consultation section 83(1)(c)). The statement of proposal must include a statement of the reasons for the proposal, an analysis of the reasonably practicable options and any other information the local authority identifies as relevant (section 87(3)).
- b) An identified consultation period of at least one month during which feedback on the proposal may be provided to Council (section 83(b)(iii)).
- c) An opportunity for people to present their views to the Council (section 83(d)) and a description of how Council will provide persons interested in the proposal with an opportunity to present their views (section 83(b)(ii)).

Special Consultative Procedure

Outcomes of this special consultative procedure could include:

- Retaining the existing fees and charges
- Adopting the proposed amendments outlined in this Statement of Proposal, or a variation of these, based on community feedback
- Adopting a higher increase to Food Act fees and charges

3. Criteria for Fixing Fees and Charges

When fixing fees Council must not provide for the recovery of more than the reasonable costs incurred by it in performing the function and it must take into account the matters outlined in section 198(2) of the Food Act, which are:

- a) Equity – funding for services should generally, and to the extent practicable be sourced from the users or beneficiaries of those services at a level commensurate with their use; and
- b) Efficiency – costs should generally be allocated and recovered to ensure maximum benefits are delivered at minimum cost; and
- c) Justifiability – cost should be collected only to meet the actual and reasonable costs (including indirect costs) of the service; and
- d) Transparency – costs are identified and allocated as closely as practicable to tangible service provisions.

4. Issues and Options

Equity

The current fees covered 47% of the Council's costs in providing services for the 2020/21 financial year. If the charges remained the same, 45% of costs will be covered (as the costs increase and the number of applications has reduced in recent times). Business owners receive the registration and verification services directly from the Council and should be paying a greater share of the costs to provide the service, compared to ratepayers. The proposed increases to fees would result in the business owners meeting 47% of Council's costs.

Efficiency

Council processes have been reviewed and refined where possible to ensure services meet legislative requirements and are fit for purpose for the business owner. Additional requirements from central government increases officer time to perform the services.

Justifiability

Fees and charges did not change during the three-year transition period to allow officers and applicants' time to better understand the new Act requirements. Fees and charges were set based on expected times to perform various tasks and now actual times to complete tasks are known.

It takes officers on average 1.75 hours to process new registration applications, one hour to renew an application, one hour to amend the scope of a registration, and half an hour to suspend a registration when volunteered by the food business. The proposed charges either reflect this time or are below the average time.

Verifications involve visiting the site, determining compliance and reporting. The time to complete this task ranges greatly depending on the complexity of the business and level of compliance. Charging at an hourly rate with no fixed initial fee is considered a fair method to accommodate this variability.

Monitoring food businesses outside of verifications is usually triggered by Council receiving a complaint or notice of an incident. If investigations found the business was operating in accordance with all requirements it is considered the costs of this monitoring had more of a public than private benefit and the costs are not charged to the business owner. If investigations found some level of non-compliance, then costs related to following up on that non-compliance would be charged to the business owner at an hourly rate.

Transparency

Actual costs for each service under the Food Act have been identified above. The proposed changes to fees are based on the reasonable costs for Council to provide that service.

The current initial fee for registering a new food business under the National Programme is \$162 based on the expected time to process this kind of application at one hour. It actually takes officers on average 1.75 hours to process these applications which is the same time it takes to register a templated food control plan. MPI charges for national programme registrations are based on the process taking 0.75 hours compared to templated food control plan registrations taking 1.25 hours.

If the initial fee to register national programmes is set at the actual time to process it the fee would almost double. National programmes are for lower and medium-risk businesses so it is reasonable to expect these businesses would not attract the same registration costs as a higher risk business. National programmes only need to be renewed every two years so this will also provide savings compared to templated food control plans.

Similarly, if the initial fee to renew registrations is set at the actual time to process it (one hour), the fee would more than double. The proposed charge is calculated at half an hour of the proposed hourly charge out rate that equates to a 4.9% increase of the current charge.

The hourly charge out rate for registration, verification and compliance services of \$162 was set in 2021 at the same level as other regulatory services. MPI currently charge \$155.25 per hour and a sample of other Council hourly rates range from \$145 to \$174 per hour.

Assessment of options against criteria

The options are to keep the current charges as they are, increase fees and charges as proposed in Attachment 1, or change the fees and charges at a higher level to better reflect the actual time required for the services.

	Equity	Efficiency	Justifiability	Transparency
Option 1 No changes	Current charges do not fairly cover costs at a rate proportional to the private benefit gained from the services	The lower registration cost of national programmes compared to template food control plans is supported by MPI which is beneficial to business owners in this category but it does not cover the actual cost to Council	Current charges do not fully reflect the actual time to carry out the various tasks The current approach to not on charge monitoring costs when the food business is compliant is justified	Current charges do not reflect the true costs of the service The current hourly rate is at the mid-point when compared to MPI and other Councils.
Option 2 Increase fees and charges as proposed	Increasing charges better reflects the private benefit proportion of the services	Increasing charges better reflects the actual time and costs for the services	Proposed amendments are considered fair and are reasonable changes compared to current charges and actual costs of the service	Proposed amendments better reflect the true costs of the services and are open to the public for comment before decisions are made

Option 3 Increase fees and charges at a higher level to better cover the actual costs for all services	The changes will improve the current allocation of costs between food business owners and ratepayers	The changes will best reflect the actual time and costs for the services	The changes are justifiable but the higher level of increase for some categories would not be reasonable compared to other categories and compared to current fee levels	The fees will be at the higher level when compared to fees for the same services imposed by some other Councils and higher than MPI expectations
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Options Analysis

Option 1 — While food business owners would not face increased fees, some current initial fees do not reflect the actual time to perform that activity. In addition the food businesses are not paying a large enough proportion of the costs of the services relative to the costs covered by general rates. If no increases are made now there may need to be larger increases in the future.

Option 2 — Increasing fees by CPI as proposed improves the proportionality of food business owners covering more of the cost of services under the Food Act, better reflects the actual time taken to perform tasks and reduces the potential for large increases in the future. Increasing fees may cause dissatisfaction or difficulty for some food business owners but the proposed increases are reasonable compared to current charges and compared to fees imposed by other Councils.

Option 3 — Increasing the fees at a higher level to best reflect the actual time for all services will ensure the business owner meets the actual Council costs for providing the service and lower the dependence on rates to provide these services. However, it is not reasonable to increase charges by this larger amount compared to current fees and the larger change is likely to cause dissatisfaction with some business owners.

Preferred Option

Option 2 — Increase Food Act fees by CPI and identified in section 2 above.

Reasons

The proposed amendments better cover the actual costs for the service and are a reasonable increase compared to existing charges. Higher increases could be justified (particularly for National Programme registrations), but on balance it was not considered fair or reasonable to propose this.

Submissions

Anyone may make a submission about any aspect of the proposed amendments to the Food Act fees and charges and any other operations that have been considered. Council, in making its decision, will take account of all submissions made.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

- online at <https://shape.nelson.govt.nz/special-consultative-procedure-change-regulatory-fees-and-charges>

- by post to Food Act Fees and Charges Amendments, PO Box 645, Nelson 7010
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

Submissions must be received no later than 14 May 2022.

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on **26 May 2022**.



Public Information: *All submissions (including the names and contact details of submitters) are public information and will be available to the public and media in various reports and formats including on the Nelson City Council website. Personal information will also be used for administration relating to the subject matter of submissions. Submitters have the right to access and correct any personal information included in any reports, information or submissions.*

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