

Attachment A – Focus Group Summary of Comments

- Fees unfair for small multisite and low risk premises
- Suggested - First fee multi-site then add on money per site fee – hourly rate might be fairer
- Grading fee is not universal – wanted it all over the country to be consistent
- Our grades can be confusing as different from Auckland – Auckland has a grading structure of A, B, C, D and E
- Worried that paperwork / records are lowering the grade not the fact the business was “unclean”
- Implement different weighting system/point system – less weighting on records or scoring adapted to each time of operator
- Do we need a bylaw, go back to just Food Act
- Food Act does work and so do we need anything else
- External auditors (not QLDC) don’t have to apply the bylaw process which was difficult for operators to understand why they don’t have to have a grade
- Fee structure should relate to the size of the business – Cake business vs restaurant – 1 or less staff vs 20 or more staff. Why should a small business pay the same as a larger business.
- One of the focus groups believed that the grading bylaw needs to be repealed and explained this to the group who took on board the need to change.
- Why not have a fee that is a baseline and top up with extra work – this would encourage operators to be more organised. Multisite to pay for each site rather than a multisite fee, this would then focus on work done and not have bigger sites getting a better deal.
- Fees don’t work for smaller simpler processes that in practice do not take as much time – so the fee for a small part time home based business the same as for a large restaurant.
- Concern that operators outside the district don’t have to have a grade
- Like the grades system for consumer and for staff to want to work hard – pay less for your hard work and effort.
- Likes re grading option – give the opportunity to improve
- Queenstown is unique as it is a tourist destination and the grading helps people decide on where to eat.
- Why change what works for the majority
- A large proportion of the group believed that lower performing should pay more and if you don’t comply you have to pay the price.
- Grading and fees believe relates to how well the operator is doing and should be kept.
- Like the incentive to get A
- Found the grading system stressful
- Focus group at Wanaka agreed the Bylaw should be repealed.

Attachment B – Risk Category Breakdown of Food Operators in QLDC

Risk Category Breakdown taken from 26 November 2020 data

	A	B	C	D	P*	N/A*	Total number of food businesses verified by QLDC
NP 1	20	5			1		26
NP 2	17	2			1		20
NP 3	53	4			8		65
Total NP	90	11			10		111
Total FCP	440	45	1		122	2	610

NP – National Program

FCP – Food Control Plan

* P – is a pending grade, a new business on registration is issued a pending grade and when the first audit is undertaken at 6 weeks they will be assessed under the Grading Bylaw and A, B, C or D grade will be assigned

* N/A – If a business is registered by QLDC and not audited by QLDC they cannot be assigned a grade.

Attachment C - Estimated Time Scales for work Undertaken

Estimated Time Scales for Work Undertaken

Activity	National Program Risk Category one	National Program Risk Category Two and Three	Food Control Plan
Appointment	15 min	15 min	15 min
Desk Top review	30 min	45 min	1 hr
Travel (Allow)	30 min	30 min	30 min
Audit	1 hr	1.5 hr	2 hr
Issue Summary	15 min	15 min	15 min
Report	30 min	45 min	1 hr
Issue Invoice and Certificate	15 min	15 min	15 min
Review of Corrective Action responses	15 min	15 min	30 min
Close Audit	15 min	15 min	15 min
Data Input	20min	20 min	20 min
Total	4 hr 5 min	5 hr 5 min	6 hours 20 min

Attachment D – Current Fees and Proposed Fees

Current Fees (Inc GST)						Proposed Fees (Inc GST)
Registration and Renewal						Registration and Renewal
Food Control Plan	\$125					Food Control Plan - \$250
National Program	\$125					National Program - \$250
Multi-Site	\$125					Multi-Site - \$250
National Programs		Grade				National Programs
Risk Level one	A - \$288	B - \$432	C - \$720	D - \$900		Risk Category one - \$500 (Limitation 4 Hours)
Risk Level Two	A - \$432	B - \$576	C - \$900	D - \$1080		Risk Category Two and Three - \$625 (Limitation 5 Hours)
Risk Level Three	A - \$576	B - \$720	C - \$1080	D - \$1260		
Food Control Plan		Grade				Food Control Plan - \$750 (Limitation 6 Hours)
	A - \$576	B - \$720	C - \$1080	D - \$1260		
Multi Sites		Grade				Multi Sites
Food Control Plan	A - \$1200	B - \$1500	C - \$1700	D - \$2000		Food Control Plan - Single site + Hourly rate for additional sites
National Program	A - \$1200	B - \$1500	C - \$1700	D - \$2000		National Program – Single site + Hourly rate for additional sites
						Note - Time beyond Limitation allocated to be charge at an hourly Rate
Hourly Rate		\$125				Hourly Rate - \$125

Other Functions charged at hourly Rate		Other Functions charged at hourly Rate
Regrading Inspection		Registration Fees
Corrective Action Close out visits		Corrective Action Close out visits
Compliance Investigation		Compliance Investigation
Improvement Notice		Improvement Notice
Monitoring		Monitoring
Amendment to Registration		Amendment to Registration
Cancelled Verification less than 24 hours' notice		Cancelled Verification less than 24 hours' notice
Failure to attend Verification		Failure to attend Verification
Unscheduled Verification		Unscheduled Verification
Direction Order		Direction Order
Restriction of Use or Closure		Restriction of Use or Closure

Attachment E – Fee Comparison to other Councils

Auditing and hourly Fees Comparison for other Councils in NZ
Dunedin – Class 1 \$343, Class 2 \$557, Class 3 \$814, Class 4 \$899 (definition of class appears to relate to size of business but no clear definition) Hourly Rate \$171
Whangarei \$558 for 3.5 hrs work Hourly Rate \$168
Nelson only has an hourly rate \$148
Central Otago FCP - \$420 NP3 - \$420 NP2 \$420 NP1 \$336 Hourly Rate \$140
Taupo only has a hourly rate \$170
Far North \$515 for 3.5 hrs verification activity
Auckland FCP - \$679.20, NP3 - \$509.40, NP1 AND NP2 - \$339.60
Registration Fees Comparison for other Councils in NZ
Dunedin – New \$110 Renewal \$68
Whangarei - \$332 (FCP) and renewal \$168 \$249 (NP) and renewal \$168
Nelson \$222 FCP \$148 NP Renewal \$74
Central Otago \$280 and renewal \$140
Taupo \$300 and renewal \$150
Far North \$180
Auckland \$339.60 FCP \$169.80 NP renewal \$169.80

Attachment F – Statement of Proposal



STATEMENT OF PROPOSAL

FOOD GRADING BYLAW 2016 REVIEW AND ENVIRONMENTAL HEALTH FEES REVIEW

INTRODUCTION

This is a statement of proposal prepared in accordance with section 83(1) (a) Local Government Act 2002 (LGA) in relation to the review of the Queenstown Lakes District Council's Food Grading Bylaw 2016 and the related Environmental Health Fees for food operators.

The Bylaw was first introduced in 2011 and created a framework for grading food businesses and required them to display a grade. The Bylaw was reviewed in 2016 and the current Bylaw is now due for review. As part of this review, an assessment under s 155 of the Local Government Act 2002 (**LGA**) requires a determination of whether a Bylaw is the most appropriate way of addressing a perceived problem.

A new Food Act 2014 (**Food Act**) came into force in 2016 and covers the same important functions as the Bylaw. Under s 446 of the Food Act, the Council must not make a Bylaw that is inconsistent with the Food Act or documents made under the Act.

The Food Grading Bylaw 2016 is due for review under s 158 LGA, and the statement of proposal reviews the options available in regard to the Bylaw and also the review of the Environmental Health fee structure.

REASONS FOR PROPOSAL

REVIEW OF FOOD GRADING BYLAW

Under s 155 (1) LGA, when undertaking a review, the Council must assess whether a bylaw 'is the most appropriate way of addressing a perceived problem'. The Food Act overhauled the food safety legislation in New Zealand. The Food Act covers the same important functions as the Bylaw and provides a National Database of all registered operators. This provides a facility to check that a food operator is registered and details about food businesses including who is checking the operator's food safety systems.

The Food Grading Bylaw was introduced to address the 'perceived problem' of encouraging a safe and healthy community, enhancing public confidence, improving standards within food businesses and providing information on where to dine. However, the Food Act now covers these functions.

There are also issues with the existing Food Grading Bylaw. The existing Bylaw aimed to provide information to customers with the use of a grading structure of A, B, C and D, however, there are issues with the Bylaw providing this information to our community. Under the Food Act, a proportion of food operators in our district are not registered by the council or do not have their food safety systems checked by QLDC. This means they have no QLDC registration or food grade to display. The lower risk operators only have one food safety audit and if this is

successful then have no further checks and therefore retain the grade obtained for the foreseeable future. The grade is only a snap shot in time of when the audit took place and it has been noted that operators have been too highly focused on the grade rather than meeting the requirements under the Food Act.

Despite the review of the Bylaw in 2016, we have now identified that there are areas of conflict with the Food Act. This includes the provisions in the Bylaw for a regrade inspection which is not allowed under the Food Act.

The current Food Act now in place covers the important functions of the Bylaw. The Act is a risk-based approach to food safety with improved systems to regulate the sale of food. The Food Act requirements mean that the Bylaw provisions do not now work effectively. The problems that the Bylaw was initially introduced to solve has now been comprehensively addressed with national legislation - The Food Act 2014. Accordingly, the Bylaw is not the most appropriate way of addressing the perceived food safety issues and should be revoked to avoid duplication or any inconsistency and enable the Food Act to address food safety for our community.

The options available are to take no action where the Bylaw will expire in 2023 or to revoke the bylaw.

It is recommended that the Bylaw be revoked.

REVIEW OF FEES

At present the fees for work undertaken under the Food Act are set in accordance with the Bylaw grading system. The current fees are based on two criteria;

- a) the grade achieved at audit as prescribed by the Bylaw (A – D); and
- b) the level prescribed by the QLDC Fee Schedule (1 – 4) based on whether the food business is single or multi-site and based on the risk categories in the Food Act.

The fees need to be reviewed because of the proposal to revoke the current Food Grading Bylaw 2016 and the issues identified. In addition there also needs to be an adjustment review of the fees to ensure that the cost recovery targets in the Revenue and Financing Policy are met.

DRAFT FEES SCHEDULE

The proposed fee schedule will base the fees on the four Food Act risk categories that food businesses fall into. These risk categories are National Programme levels 1, 2 and 3 and Template Food Control Plans. The idea with the risk categories is that a National Programme level 1 is the lowest risk. An example of this type of food business would be a business just selling hot drinks. In theory, this type of operator would be less work to audit as the food business has a simple food production system. Moving up the levels, the Template Food Control Plan is a highest risk category and this includes businesses that are restaurants and cafes and these type of operators would take more time to audit.

In practice National Programme level 2 and 3 are very similar in terms of the time required to audit these operators, therefore it is proposed the fee for these two risk categories is the same. An example of a National Programme level 2 would be a manufacturer of bread products and an example of a National Programme level 3 would be a brewer of beer.

Operators with multisite registrations will be charged the fee relating to the risk category associated with the registration and then an hourly rate for the time taken to audit each site.

Extra charges will be incurred by the operators if the amount of hours allocated for the audit of the risk class is exceeded. For example, this would be due to the operator not being prepared for the audit, significant issues identified or the operator not providing the information as requested by the auditor.

Information relating to the number of food operators we register in our district, estimated time scales, comparison to other council fees and the existing and proposed fee structure can be reviewed in the appendices.

DISTRIBUTION OF STATEMENT OF PROPOSAL

This proposal will be distributed in accordance with Section 83 of the LGA, on the following basis:

- a) The Council will email all food operators registered with QLDC using the Council's existing database, providing a copy of the proposal and indicating that the Council would welcome submissions on the matter.
- b) The Council will advertise in the Otago Daily Times, Southland Times, The Wānaka Sun and in the Mountain Scene, advising that the proposal exists and inviting submissions.
- c) The Council will post on Facebook and Twitter details of the proposal.

Time Table for Consultation

The following dates represent the key times in the consultation process:

28 January 2021	Council resolves to undertake public consultation on the proposed revoking of the Food Grading Bylaw 2016 and the proposed changes to the Environmental Health Fees schedule
29 January 2021	Submissions open at 9.00am
Week beginning 1 February 2021	Advertisement in Mountain Scene, The Wānaka Sun, Southland Times and Otago Daily Times Email to all Food operators Post of Facebook and Twitter
28 February 2021	Submissions close at 5pm
To be confirmed	Submissions heard by a subcommittee of Councillors
To be confirmed	Council considers outcomes of the public hearing process. Adoption of the new fees schedule and revoke of the Food Grading Bylaw
To be confirmed	Public Notice of the final decision
To be confirmed	Bylaw revoked and new fees schedule in place

Inspection of Documents and Obtaining Copies

Copies of this proposal and the supporting reports may be inspected and a copy obtained at no cost from:

- a) Either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmore Street, Wanaka
- b) The Council website – www.qldc.govt.nz

Right to Make Submissions and Be Heard

Any person or organisation has a right to be heard in regard to this proposal and the Council would encourage everyone with an interest to do so.

Any person or organisation has a right to comment on the proposed revoking of the Food Grading Bylaw and the proposed fees review. Council encourages everyone with an interest to do so. Those wishing to make a submission can do so online at <https://letstalk.qldc.govt.nz/> or by posting it to Environmental Health Department, Finance and Regulatory Department, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348 marked to the attention of Environmental Health Team.

Submissions must be received by no later than 5pm on Monday 28 February 2021.

All submissions must be dated and include contact details such as your name, email or postal address and telephone number. We will not publish your contact details but may use them to get in touch with you about your submission. Please advise whether you wish to be heard in support of your submission at any hearing .

Submissions will be heard by a Subcommittee of Councillors, the hearing will be on the **DATE** at which any party who wishes to do so can present their submissions in person.

Equal weight will be given to written and oral submissions.

The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.

Every submission made to the Council will be acknowledged in accordance with the LGA, will be copied and made available to the public, and every submission will be heard in a meeting, which is open to the public.

Section 82 of the LGA sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

Making an Effective Submission

Written submissions can take any form (e.g. Email, letter). Submissions on matters outside the scope of the revoking of the Bylaw and fees review cannot be considered by the Hearings Panel.

Mike Theelen

CHIEF EXECUTIVE

APPENDIX A – Focus Group Summary of Comments

APPENDIX B – Risk Category Breakdown of Food Operators in QLDC

APPENDIX C – Estimated Time Scales for work undertaken

APPENDIX D – Current Fees and Proposed Fees

APPENDIX E – Fee Comparison to other Councils.