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# Alcohol Fees Bylaw

Statement of Proposal  
April 2021

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## The Proposal

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The Council is proposing to increase the fees it collects from licensing services under the Sale and Supply of Alcohol Act 2012. In 2017/18 the fees recovered by the Council covered 68 percent of the licensing costs with the additional 32 percent being made up from rates.

In 2019 the Council introduced its Alcohol Fees Bylaw which increased the level of fees recovered to 71 percent. At the time the Council indicated that it would be proposing to increase the level of fees to recover 85 percent of the costs incurred by the Council to administer alcohol licensing.

To increase the level of fees from 71 to 85 percent the Council must amend its Alcohol Fees bylaw.

This proposal was set to be put to the public in April 2020 but was delayed due to the COVID-19 pandemic and subsequent lockdown. The Council also worked to rebate fees as a result of hardship caused by the COVID-19 lockdown.

The proposal is to:

- Increase fees for licences that have a high or very high-risk rating

## Have your say

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Please let us know what you think about the proposed Alcohol Fees Bylaw.

To have your say about the proposed Alcohol Fees Bylaw you can:

- make a submission online at [www.wellington.govt.nz/haveyoursay](http://www.wellington.govt.nz/haveyoursay)
- download a submission form from the website and email it to [policy.submission@wcc.govt.nz](mailto:policy.submission@wcc.govt.nz)
- fill in the submission form and send it to Freepost 2199, Alcohol Fees Bylaw, PO Box 2199, Wellington 6140
- drop a completed submission form to our service centre at 12 Manners Street

Printed copies of this statement of proposal can be viewed at the city's libraries.

## Key dates

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3 May 2021	Submissions open
3 June 2021	Submissions close
June 2020	The Council makes a decision on the proposal
1 July 2021	If adopted, the bylaw will become effective

## Background

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The Council has a range of alcohol licensing related functions under the Sale and Supply of Alcohol Act 2012 (the Act). The fees for these functions are able to be set to recover the total costs incurred for these functions. The Council passed its Alcohol Fees Bylaw which took effect in October of 2019. During the consultation process the Council made it clear that it would consult with the public on increasing the level of fees collected in 2020. The impact of COVID-19 meant that this has been delayed until 2021. In order to increase these fees the Council must amend the Bylaw that it passed in 2019.

# Review

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The current fees set by the existing Bylaw do not cover all the costs incurred by the Council in carrying out its activities. These costs are above and beyond the costs that are recovered by the Bylaw. This includes the full costs of the monitoring and reporting requirements of licensing inspectors. At present the Council recovers 71% of the costs associated with administering both new and existing licences. The remaining cost is subsidised by general rates.

## 1. What is the Council proposing?

### Increased application and annual fees for high and very high-risk licences.

The Council is proposing to amend its Alcohol Fees Bylaw in order to increase the proportion of the costs recovered to 85%. The remaining 15% is considered attributable to the public good of delivering this service and will still be covered by general rates.

The proposed fee structure takes into account feedback that was given by industry stakeholders in submissions and workshops held in 2019.

Many submitters told the Council that they believed the burden of fees needed to be placed on the higher risk licence holders rather than the low risk licence holders who may not sell much in terms of alcohol sales.

The Council proposes to not raise the fees on the risk categories for existing licencees with very low, low and medium risk ratings and will leave these at their 2019 levels (subject to applications being submitted correctly). The Council however is proposing to increase the fees on the high and very high risk category licences to reflect the additional work that is required by staff such as inspections and additional administration due to the nature of these licences and the risk associated with alcohol related harm.

As at 1/3/21	Licence numbers	Current Application Fee	Proposed Annual Fee	Change	Current Annual Fee	Proposed Annual Fee	Change
Very Low	56	486	486	0	213	213	0
Low	238	805	805	0	516	516	0
Medium	291	1,078	1,078	0	835	835	0
High	108	1,351	2,351	1,000	1,366	2,366	1,000
Very High	0	1,594	3,594	2,000	1,898	3,898	2,000

## **2. Why is the Council increasing the fees on very high- and high-risk premises?**

The Council has made it clear that it intends to reduce risk from alcohol related harm. The Council identified alcohol related harm reduction as an integral part of its Alcohol Management Strategy in 2013. The Council takes alcohol related harm reduction seriously and as such higher risk premises require additional work that is not associated with lower risk licences.

There are a number of additional costs that the Council incurs that are related to high and very high-risk premises. These do not relate in the same way to the very low, low, and medium risk premises.

There are a number of variables that the Council needs to examine when scrutinising an application, which are significant in relation to high and very high licence applications that are not prevalent in the lower licence categories, these include but are not limited to.

- Administration support and inspectors' costs in receiving and reporting on the applications
- Legal costs
- District Licensing Committee (DLC) costs
- Venue costs
- Cost of transcripts
- Controlled purchase operations
- Graduated Response Model (GRM) meetings
- General compliance visits
- Responding to complaints

## **3. What costs does the Council incur?**

### **Application Fees**

Inspectors and other Council staff must analyse what actions both very high- and high-risk premises are taking to mitigate alcohol related harm, and this requires additional work which incurs costs including additional time spent on applications. High and very high-risk premises often attract objections that result in hearings, which incur costs, including legal advice and preparing briefings for the District Licensing Committee (DLC).

Any licensing matters that are appealed to the Alcohol Regulatory and Licensing Authority (ARLA) must have a transcription of the associated DLC hearing to send to ARLA. This is a costly expense and is often not easily recouped from the applicant. There has been an increase in the number of applications that receive public objections. This is due to more awareness of alcohol related harm, and community empowerment as envisioned by the Act, as well as input from Councillors and health and community stakeholders such as the Health Promotion Agency.

For a premises to have been attributed as very high, the applicant will have had an enforcement holding issued by ARLA. They have in effect breached sections 280 and 281 of the Act which is an indication that their very high-risk rating reflects that these premises are not mitigating alcohol related harm sufficiently. When a matter goes to ARLA, Council inspectors are required to undertake additional reports and if the matter requires a hearing, often legal advice and assistance is required.

### **Annual Fees**

As part of the Council's Annual Plan measures, all very high-risk premises are inspected at peak trading times at least twice a year. High risk premises are all inspected at least once a year with 50% of those inspections taking place during peak trading hours. High and very high-risk premises are also on the Council's 'watch list' - it is not uncommon for these premises to be visited three or four times per year.

High and very high-risk premises are also subject to controlled purchase operations. This is usually a joint operation with the Police - and incurs costs associated with this.

The Council also works closely with poor performers through a Graduated Response Model (GRM) meeting to assist them in making sure that they improve their performance. There are also costs associated with these meetings.

#### 4. Can't the Council simply charge for hearings?

The Council does not charge for hearings, as it believes this will ensure an element of natural justice, maintaining the community's ability to oppose a potential licence without having to incur the costs. The Council has no plans to introduce charges for hearings.

#### 5. How does the weighting work?

There is no change to the way in which the Council attributes risk to each licence. The risk categories are drawn from the Sale and Supply of Alcohol Act 2012, and are based on the risk attributed to each licence due to the type of premises, the hours of business and the number of enforcement holdings that have

been issued to the licence holder. The lower the weighting/risk rating, the lower the fees category.

The Council must attribute a cost/risk rating to all licenced premises under Section 5 of the Sale and Supply of Alcohol (Fees) Regulations 2013; it is unable to adjust the weighting which is determined by the Act.

The Act outlines the three categories that the Council must use when determining the risk associated with each licenced premises. These are outlined below.

#### Premises type

The Act recognises that there are certain premises that have a higher risk.

Licence held or sought	Type of premises	Weighting
On-Licence	Class 1 restaurant, night club, tavern, adult premises	15
On-Licence	Class 2 restaurant, hotel, function centre	10
On-Licence	Class 3 restaurant, other premises not otherwise specified	5
On-Licence	BYO restaurant, theatres, cinemas, winery cellar doors	2
Off-Licence	Supermarket, grocery store, bottle store	15
Off-Licence	Hotel, Tavern	10
Off-Licence	Class 1, 2, or 3 club, remote sale premises, premises not otherwise specified	5
Off-Licence	Winery cellar doors	2
Club Licence	Class 1 Club	10
Club Licence	Class 2 Club	5
Club Licence	Class 3 Club	2

### Hours of Business

The Act also recognises the fact that licenced premises that are open later attract a higher risk rating.

Type of Premises	Latest trading time allowed	Weighting
Premises for which an on-licence is held or sought	2am or earlier	0
	Between 2:01 and 3am	3
	Any time after 3am	5
Premises for which an off-licence is held or sought (other than remote sales premises)	10pm or earlier	0
	Any time after 10pm	3
Remote sales premises	Not applicable	0

### Enforcement Holdings

If a licence holder breaches Section 288 of the Act, they are issued with an enforcement holding. The Act also notes that repeated offences can lead to a licence cancellation. If a licenced premises has been issued

with an enforcement holding they have effectively broken the law, and the Act recognises this by attributing a higher risk rating.

Number of enforcement holdings in last 18 months (applies to all types of premises)	Weighting
None	0
1	10
2 or more	20

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**The Risk rating**

Adding up the weightings from each of these categories, the Council is able to attribute a risk rating to each licence and determine the fees category.

<b>Cost/risk rating of premises</b>	<b>Fees Category</b>
0-2	Very low
3-5	Low
6-15	Medium
16-25	High
26 plus	Very High

## Proposed Schedule of Fees

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As at 1/3/21	Licence numbers	Current Application Fee	Proposed Annual Fee	Change	Current Annual Fee	Proposed Annual Fee	Change
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# Alcohol Fees Bylaw

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## Introduction

This bylaw is made under section 405 of the Sale and Supply of Alcohol Act 2012 and the Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013. This bylaw comes into force on 1 July 2019

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### 1. Purpose

The purpose of this bylaw is to set the fees for any matter for which a fee payable to territorial authorities are prescribed in the Sale and Supply of Alcohol (Fees) Regulations 2013.

### 2. Interpretation

- 2.1 Unless the context otherwise requires, words and phrases in the Sale and Supply of Alcohol Act 2012 and the Sale and Supply of Alcohol (Fees) Regulations 2013 have the same meaning in this bylaw.
- 2.2 Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- 2.3 The Interpretations Act 1999 applies to this bylaw.

### 3. Fees

Table 1 sets out the fees payable to Council for the functions undertaken by the Council under the Sale and Supply of Alcohol Act 2012.

**Table 1: Fees payable**

<b>Type of fee</b>	<b>Risk category</b>	<b>Fees to apply from 1 July 2021</b>
Application fee	Very low	\$486.00
	Low	\$805.00
	Medium	\$1,078.00
	High	\$2,351.00
	Very high	\$3,594.00

<b>Annual Fee</b>	<b>Risk category</b>	<b>Fees to apply from 1 July 2021</b>
Annual Fee	Very low	\$213.00
	Low	\$516.00
	Medium	\$835.00
	High	\$2,366.00
	Very high	\$3,898.00

<b>Special licence fee</b>	<b>Special licence Class</b>	<b>Fee</b>
Special licence fee	Class 1	\$759.00
	Class 2	\$273.00
	Class 3	\$83.00

<b>Other</b>	<b>Temporary authority</b>	<b>\$392.00</b>
	<b>Temporary licence</b>	<b>\$392.00</b>

