

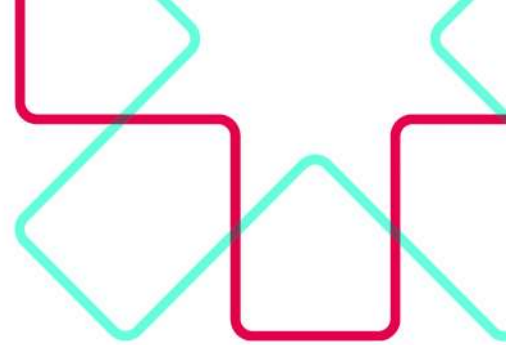
STREET TRADING AND OTHER BYLAW FEES REVIEW

Final Report

Auckland Council

February 2015





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PREFACE

This report has been prepared for Auckland Council by Nicholas Carlaw from MartinJenkins (Martin, Jenkins & Associates Limited).

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Restrictions

This Report has been prepared solely for the purposes stated herein and should not be relied upon for any other purpose.

It has been prepared for the Auckland Council and is not intended for distribution to third parties (our prior written approval should be sought before release to any third party).

To the fullest extent permitted by law, we accept no duty of care to any third party in connection with the provision of this Report. We accept no liability of any kind to any third party and disclaim all responsibility for the consequences of any third party acting or refraining to act in reliance on the Report.

We have not been required, or sought, to independently verify the accuracy of information provided to us. Accordingly, we express no opinion on the reliability, accuracy, or completeness of the information provided to us and upon which we have relied.

The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon is true and accurate in all material respects, and not misleading by reason of omission or otherwise. We reserve the right, but will be under no obligation, to review or amend this Report, if any additional information, which was in existence on the date of this Report, was not brought to our attention, or subsequently comes to light.



EXECUTIVE SUMMARY

Introduction

- 1 Auckland Council (“the Council”), through its Licensing and Compliance Services (“the Department”) is responsible for a wide range of regulatory activities in the Auckland region, including environmental health licensing, alcohol licensing, animal management, street trading and noise control.
- 2 Over the last two years, the Council has introduced new dog registration fees and food licensing and environmental health fees. MartinJenkins has provided advice to the Department on these (“EH fee reviews”).¹
- 3 MartinJenkins has been engaged by the Department (on behalf of the Council) to undertake a review (“the Review”) of the remaining 83 legacy fees, set under legacy bylaws. The Department anticipates that changes to these and environmental health fees will take effect from 2015/16.

Intended audience

- 4 This report has been written for officers of the Licensing and Compliance department and the Council’s Finance, Planning and Budgeting department to inform advice from Council officers to the Mayor and Councillors.
- 5 Aspects of this report reference the earlier fee reviews undertaken by MartinJenkins and the report has been written on the basis that the intended audience has knowledge of these reviews.

Objectives

- 6 The Review has three main objectives:
 - rationalise existing licence fees
 - apply a consistent approach to setting new licence fees
 - introduce a separate rental charge for the commercial use of public space (“rental charge”).

Caveat

- 7 In preparing our advice to the Council, we have not been required to undertake an assessment of the extent to which businesses are willing, or able, to pay the fees and

¹ MartinJenkins: Environmental Health and Animal Management Fees, October 2012, and Environmental Health and Licensing Fees Review, October 2013.



charges proposed in this Review. We make no judgements about how the level of the proposed fees and charges impact the economic viability of street trading and signage activity.

- 8 The Council has indicated that it will consult the public on the proposed levels of fees and charges. It is our understanding that public submissions will inform the Council’s view on the suitability and level of user-charges, alongside the advice in this Review.

Legacy Fees

- 9 Table 1 summarises the legacy fees in-scope of the review. In aggregate, the fees generate approximately \$0.535 million of revenue.² The Council incurs cost of more than \$1.5 million in carrying out the underlying licensing and request for services activities.³

Table 1: In-scope legacy fees

Fee category	Number of legacy fees	Fee revenue excl. GST (\$,000)	Volume of fees charged
Street trading (including outdoor dining, markets, mobile shops and temporary stalls etc)	46	524	1,205
Amusement galleries	2	-	-
Signage (including billboards, temporary signs, banners, sandwich boards)	9	5	36
Keeping of bees, pigs and poultry	6	1	4
Public buildings or places of public resort	11	1	7
Travellers accommodation	3	-	-
Fire permit	1	-	-
Hazardous substance inspections	5	4	36
Total	83	535	1,288

Legacy fees will be revoked by 2015

- 10 There is a review of legacy bylaws underway. The Council’s Integrated Bylaw Review and Implementation Programme (IBRI) is replacing the legacy bylaws with an integrated set of bylaws for Auckland Council. The programme has direct implications for legacy fees in that the fees will either be revoked at the time the new bylaw comes into effect, or by 1 October 2015 (whichever occurs first).

² This includes revenue from licence fees and rental charges, but it is not possible to distinguish between each.

³ Estimated cost. Further analysis required to determine actual cost.



- 11 This means that, unlike a typical fee review where some fees are replaced but others might remain, the whole user-charges regime needs to be redesigned. The new bylaws have an important role in informing the new fee design.
- 12 Legacy bylaws are being replaced by three new bylaws: trading in public places, signage and animal management. The bylaws differ from the legacy bylaws in many respects. As a result, the new user-charges regime looks quite different to the legacy fees.

New licence fees

- 13 Table 2 sets out the proposed licence structure and includes some specific fees requested by the Council.
- 14 Fees are based on draft versions of the bylaws.⁴ Fee levels are estimated using 2014/15 budgeted costs and volumes as at June 2014.⁵

Table 2: Recommended bylaw fees

Recommended bylaw fees	Fee levels (including GST)	Fee revenue (excluding GST)	Volumes of fees charged
Recommended fees			
Outdoor dining	360	248,870	795
Mobile shops and temporary stalls	300	102,000	391
Market operators	360	3,757	12
Offering commercial services (guided tours & operators, non-notified activity)	300	18,261	70
Fire permit	120	38,296	367
Animal management	240	1,878	9
Signage dispensations	actual cost	40,000	50
Local Board involvement in licence applications	actual cost	-	-
Offering commercial services (guided tours & operators, publicly notified activity)	actual cost	-	-
Fees requested by Council to inform decision making			
Outdoor display of goods - dispensation fee	60	20,870	400
Outdoor display of goods - licence fee	60	208,696	4,000
Distribution of promotional materials	60	2,609	50
Offering commercial services (commercial sex workers)	60	1,565	30
Busking and street performance	60	36,522	700

⁴ Draft trading in public places bylaw – March 2013, draft signage bylaw – v0.21 140207, draft animal management bylaw – 10 April 2014.

⁵ The report is informed by a recent audit undertaken by the Council of volumes of outdoor dining activity across the Auckland region.



New rental charges

- 15 Rental charges generate third-party revenue for the Council and can be used to offset the level of rates funding required. They are different to licence and administrative fees which, in comparison, are used to recover the cost of the Council's underlying activities.
- 16 A rental charge is applied when public space is used for commercial gain. The objective of the charge is to:
- compensate for the loss of access or use of public space
 - recognise that there is benefit to those who are using the public space for commercial purpose.
- 17 Four main options (plus additional sub-options) have been identified for setting a rental charge, each with their own advantages and drawbacks. Some options can be readily discounted as they cannot be used to calculate street trading or signage charges. Each of the remaining options are used to calculate the rental charge for at least one activity.
- 18 Table 3 sets out the proposed rental charges and the amount of revenue expected to be generated as a result (based on volume information as at July 2014). Appendix 5 sets out the basis for calculating the rental charges.

Table 3: Recommended rental charges

Recommended rental fees		Level of rental charge (including GST)		Revenue generated (excluding GST)	Volumes of activity		
					average size (m ²)	operating hours	volumes
Outdoor dining	Tier one	\$140.00	per m ² per annum	291,200	13		184
	Tier two	\$ 85.00	per m ² per annum	392,035	13		408
	Tier three	\$ 20.00	per m ² per annum	45,896	13		203
Mobile vendor and temporary stalls	Tier one	\$ 0.30	per m ² per hour	22,414	8	2,685	4
	Tier two	\$ 0.20	per m ² per hour	74,713	8	2,685	20
	Tier three	\$ 0.05	per m ² per hour	342,746	8	2,685	367
Market operators	All locations	\$ 0.35	per m ² per day	56,974	300	52 days	12
Offering commercial services (guided tours and operators)	Regional parks	Per person charge varies from \$0.80 to \$4.05 (average \$1.80), or 10% of gross turnover		36,263			
Outdoor displays of goods	Tier one	\$305.00	per annum per display	106,087			400
	Tier two	\$195.00	per annum per display	203,478			1,200
	Tier three	\$ 40.00	per annum per display	83,478			2,400
Distribution of promotional materials	All locations	\$ 75.00	per annum per distributor	16,304			50



Recommended rental fees		Level of rental charge (including GST)		Revenue generated (excluding GST)	Volumes of activity	
					average size (m ²)	operating hours
Busking / street performance	All locations	\$ 75.00	per annum per person	45,652		700
Sandwich boards and portable signs	Tier one	\$ 75.00	per annum per sign	32,609		500
	Tier two	\$ 50.00	per annum per sign	65,217		1,500
	Tier three	\$ 10.00	per annum per sign	26,087		3,000
Posters and horizontal cross-street banners	All locations	By negotiation with Council				
Total revenue				1,841,153		

Tier One: Auckland CBD.

Tier Two: Orewa, Browns Bay, Takapuna, Birkenhead, Devonport, Ponsonby, Herne Bay, Freemans Bay, Mission Bay, Grey Lynn, Newmarket, Milford, Ellerslie, Howick, Epsom, Kingsland, Mount Eden, Newton, Parnell, Remuera, St Heliers.

Tier Three: All other suburbs.

Transition arrangements

- 19 The new fees and charges lead to changes in the amount payable across each of the legacy council areas. There is a need for transition arrangements to support implementation of the new regime overtime. The same approach used to transition to the new food licensing fees is recommended.



1 INTRODUCTION

- 20 Auckland Council (“the Council”), through its Licensing and Compliance Services (“the Department”) is responsible for a wide range of regulatory activities in the Auckland region, including environmental health licensing, alcohol licensing, animal management, street trading and noise control.
- 21 The transition from seven legacy territorial local authorities into the Auckland Council has resulted in the Department inheriting a regulatory system with different compliance standards, performance criteria and fee structures.
- 22 Over the last two years, the Council has introduced new dog registration fees, food licensing and environmental health fees. MartinJenkins has provided advice to the Department on these (“EH fee review”).⁶ A separate project is underway within the Department to review the licence fees associated with the alcohol legislative reforms.
- 23 MartinJenkins has been engaged by the Department (on behalf of the Council) to undertake a review (“the Review”) of the remaining 83 fees set under legacy bylaws. The Department anticipates that changes to these and environmental health fees will take effect from 2015/16.

Intended audience

- 24 This report has been written for officers of the Licensing and Compliance department and the Council’s Finance, Planning and Budgeting department to inform advice from Council officers to the Mayor and Councillors.
- 25 Aspects of this report reference the earlier fee reviews undertaken by MartinJenkins and the report has been written on the basis that the intended audience has knowledge of these reviews.

Objectives

- 26 The Review has three main objectives.
- **Rationalise existing fees.** Where legacy councils undertook similar activities but charged different amounts, legacy fees can be consolidated. Some legacy fees can be eliminated because of changes to the bylaws.
 - **Apply a consistent approach to setting licence fees.** Licence fee levels will be set using an approach which better reflects the underlying drivers of the Department’s regulatory activity and costs.

⁶ MartinJenkins: Environmental Health and Animal Management Fees, October 2012, and Environmental Health and Licensing Fees Review, October 2013.



- **Introduce a separate rental charge.** The Council has a desire to explore charging for the use of public space for commercial gain and is seeking to identify a robust, principle-based charging approach. The Council will consult publicly on fee levels and has requested that licence fees and rental charges be calculated separately.

Approach

- 27 The approach to the Review is similar to previous fee reviews, and includes:
- identifying which of the fees currently charged by the Department are ‘in-scope’ of the Review
 - establishing the basis for fees and charges under the relevant bylaw
 - assessing legacy fees against cost recovery principles to identify key issues
 - undertaking a desk-based review to identify rental charging options used by other councils (district and regional) and government (New Zealand and overseas)
 - assessing alternative charging options and identifying a preferred charging regime
 - estimating levels of fees and charges using a purpose-built model.
- 28 The Review has been informed by discussions and workshops with a range of Council personnel including staff from Regional and Local Planning, Finance, Planning and Budgeting and Licensing and Compliance.

Data

- 29 Throughout the report, 2014/15 budgeted costs are used. Licensing-related costs are identified using a methodology agreed by the Department and Council’s finance policy personnel in the EH fee review.⁷
- 30 Fee and activity volumes are based on 2011/12 data⁸ and, on advice from the Council, adjustments have been made to reflect known levels of activity as at July 2014.
- 31 For reasons discussed later, fee options are informed by bylaws in various stages of development. The draft bylaw versions referred to in this report are:
- draft trading in public places bylaw, March 2013
 - draft signage bylaw, v0.21 140207
 - draft animal management bylaw, 10 April 2014.
- 32 Land valuation data from the Council’s geographic information system (GIS) as at July 2014 is used to calculate rental charges.

⁷ MartinJenkins has not been required to review this methodology.

⁸ Volume information is compiled from multiple sources including legacy management information systems and estimates provided by Council personnel. Outdoor dining volumes are based on a recent audit of activity across the Auckland region.



Caveats

- 33 In preparing our advice to the Council, we have not been required to undertake an assessment of the extent to which businesses are willing, or able, to pay the fees and charges proposed in this Review.
- 34 The introduction of rental charges, in particular, increases the amount of user-charges for many fee payers. We make no judgements about how the level of the rental charges impact the economic viability of street trading and signage activity.
- 35 The Council has indicated that it will consult the public on the proposed levels of rental charges. It is our understanding that public submissions will inform the Council's view on the suitability and level of rental charges, alongside the advice in this Review.
- 36 We have relied on information provided to us by the Council. We have not sought, nor have we been asked, to verify this information. This includes, but is not limited to:
- whether the Council has authority to charge for the use of public space for commercial gain
 - costs and other financial data
 - historical fee levels
 - fee and activity volumes
 - land valuation data
 - explanations of business processes (eg average length of time that it takes to undertake inspection activities).
- 37 Where final bylaws differ from the draft versions (eg as a result of public consultation) and/or there are changes to volumes of activity, there may be a need to revisit the recommended fees and charges.

Terminology

- 38 Terminology used in this report is consistent with the Council's new bylaws. For ease of understanding, Appendix 1 contains a glossary of the commonly used phrases and their meanings.



2 LEGACY FEES

- 39 There are 83 legacy fees in-scope of this Review.⁹ In aggregate, these fees generate approximately \$0.535 million of revenue.¹⁰ The Council incurs cost of more than \$1.5 million in carrying out the underlying licensing and request for services activities.¹¹ Costs are incurred across several departments: Licensing and Compliance, parks and the planning department.
- 40 Street trading fees generate the most revenue, compared to the other fee groups. One fee generates 87% of total street trading revenue.¹²
- 41 Most of the fees are fixed and charged annually. Some street trading fees are charged on a pro-rated basis for shorter periods (eg monthly or bi-annually). The basis for charging fees varies, particularly for street trading and signage fees. This reflects the variety of practices employed by legacy councils in the past.
- 42 Table 4 summarises the in-scope fee categories. Appendix 2 lists the individual fees.

Table 4: In-scope legacy fees

Fee category	Number of legacy fees	Fee revenue excl. GST (\$,000)	Volume of fees charged
Street trading (including outdoor dining, markets, mobile shops and temporary stalls etc)	46	524	1,205
Amusement galleries	2	-	-
Signage (including billboards, temporary signs, banners, sandwich boards)	9	5	36
Keeping of bees, pigs and poultry	6	1	4
Public buildings or places of public resort	11	1	7
Travellers accommodation	3	-	-
Fire permit	1	-	-
Hazardous substance inspections	5	4	36
Total	83	535	1,288

- 43 Fees relating to films and events are out of scope. The Council is planning to undertake a separate review of these fees in 2015.

⁹ This is less than the number indicated in the EH fee review (90). Some fees were originally identified as being street trading fees but are actually part of other regulatory regimes and are out of scope.

¹⁰ This includes revenue from licence fees and rental charges, but it is not possible to distinguish between each.

¹¹ Cost estimated. Further analysis necessary to identify actual cost.

¹² The Auckland City Council legacy outdoor dining fee.



Issues with legacy fees

- 44 Issues with the legacy fees result from the Department inheriting licensing regimes with different compliance standards, performance criteria and fee structures. The issues identified are the same as those in the EH fee review, with one addition.
- 45 Some street trading and signage fees appear to be set above normal cost recovery levels. It is likely that these charges comprise a rental and cost recovery component. The ACC legacy council fee for permanent street banners (\$6,382) is one example. Across legacy councils, there is no consistent approach about whether or not a rental charge is applied.
- 46 Where fees are set above normal cost recovery levels, there is no transparency in how the overall fee level is arrived at, or the basis for calculating a rental charge. In some cases, the lack of transparency has meant that the legacy council has stopped charging the fee (eg Rodney District Council street trading fees).
- 47 Other issues common to the EH fee review include the following.
- There are a large number of fees. This gives rise to a significant administrative cost for the Council, and can cause confusion for the fee payer in terms of understanding which fees are applicable to them.
 - Fees are not charged in a consistent way across legacy councils. Fee payers who operate businesses across legacy council boundaries are charged in different ways for the same activity. A number of legacy councils have fees for similar activities; however, the basis for which they are charged differs (eg fees for licensing outdoor dining areas are determined on a “square-metre” basis, or by the number of chairs).
 - There is misalignment between fees charged and Council’s cost. Legacy fees have been set with reference to the legacy council costs but these do not align well with the Council’s current cost structure.
 - Legacy councils have had regard to different policies for determining how the licensing activities were funded. This has led to different proportions of rates funding and user-charges being used to fund similar activities across legacy councils.

Legacy fees will be revoked by 2015

- 48 All in-scope fees are set under legacy bylaws. The bylaws were adopted by the legacy councils and are specific to that area.
- 49 There is a review of legacy bylaws underway. The Council’s Integrated Bylaw Review and Implementation Programme (IBRI) is replacing the legacy bylaws with an integrated set of bylaws for Auckland Council.
- 50 This means that, eventually, all legacy fees will be revoked. The timing of this depends on when a legacy bylaw is being replaced. Legacy fees will either be revoked at the time the new bylaw comes into effect, or by 1 October 2015 (whichever is sooner).



3 DESIGNING FEES FOR NEW BYLAWS

- 51 Unlike a typical fee review where some fees are replaced but others remain, the whole user-charges regime needs to be redesigned. The new bylaws have an important role in informing the new design.
- 52 Legacy bylaws are being replaced by three new bylaws: trading in public places, signage and animal management. The bylaws differ from the legacy bylaws in many respects. As a result, the new user-charges regime can be expected to look quite different to the legacy fees.
- The new bylaws apply across the Auckland region. The number of legacy fees can be rationalised. New fees and charges can be set using a consistent approach.
 - The activities regulated in the new bylaws differ to the legacy bylaws. In some instances, the Department's operational processes and / or cost structure may change as a result. Some legacy fees are no longer required (eg licences for public buildings). New fees are needed, where none previously existed (eg licensing outdoor displays of goods).
 - The new bylaws are less prescriptive about the design of fees and charges. The Council has a greater degree of choice about how user-charges can be set to support achievement of bylaw objectives.
 - The licensing approach differs between the new bylaws. This has implications on the type of fee charged (eg where an activity is licensed on an exemption basis, a dispensation fee is more appropriate than a licence fee).
- 53 Consistent with best practice, a principle-based approach is used to set user-charges. The cost recovery principles used are consistent with the EH fee reviews and are summarised in Appendix 3.
- 54 The method used to identify the level of cost recovery is also consistent with the EH fee reviews. Activities undertaken by the Council are assessed as having either private or public good characteristics. Fees are generally charged for activities that are private good in nature, such as licensing.¹³ The cost recovered includes direct expenditure and an allocation of Council overhead costs.

¹³ Licensing activities that are the focus of this review are predominately private good in nature and, accordingly, costs are sought to be recovered via user-charges in the first instance. Investigations (request for services) generally arise because of non-compliance and, from a risk exacerbator perspective, there could be a case for direct charging. However, investigations can also result in no action and it can be seen as unfair to charge in this situation. Investigation of one activity can also lead to further investigation, often of similar activities in the surrounding area. The type of responses (resulting from the wider investigation) would typically vary on a case by case basis. Determining how the cost is recovered would be problematic and result in administrative inefficiencies. Moreover, investigations help to maintain integrity in the regulatory system and, therefore, have a strong element of public good.



- 55 The fee design is consistent with the Council's new environmental health fees. Fee levels are fixed and charged on an annual basis. Fee revenue recovers the cost of the Council's underlying licensing activities including administration, inspection and travel. The same licence fee applies to first-time applications and licence renewals.¹⁴
- 56 A key issue is the timing of the development of the new bylaws. Bylaws are in various stages of development and are subject to change prior to finalisation (eg as a result of feedback from public consultation). This introduces a level of uncertainty into the fee setting process.
- 57 The following sections in the report set out proposals for: cost recovery fees (Section 4), rental charges (Section 5) and transitional arrangements for moving to the new fees and charges regime (Section 6).

¹⁴ The cost of first-time applications and licence renewals is comparable.



4 NEW COST RECOVERY FEES

Street trading

58 The draft trading in public places bylaw prescribes the street trading activities permitted by the Council.¹⁵ Activities can only be undertaken if the Council has issued a licence, or in some cases, given written permission. The bylaw gives the Council authority to charge a fee to recover its costs.

Recommended licence fees

59 It is recommended that a licence fee be charged for the following categories of street trading activity:

- outdoor dining
- mobile shops and temporary stalls (that are not part of a market)
- market operators
- offering of commercial services (including non-publicly notified applications for guided tour and operator activity in parks and reserves).¹⁶

In addition, an hourly rate is charged commensurate with time spent by Local Boards in consideration of licence decisions and council assessment of publicly notified applications for guided tour and operator activity in parks and reserves.

60 There is strong rationale for this fee structure. It aligns with the bylaw licensing framework. Activities within each street trading category are homogeneous. The Council incurs similar levels of cost in carrying out the underlying licensing activities. The number of legacy fees is significantly reduced, and licence fees are charged for over 95% of total street trading activity. There is less complexity and administrative cost for the Council. Fee payers have greater certainty of the amount payable and are charged the same fee irrespective of their business location.

61 Many issues were considered during the course of designing the fee structure. Several warrant further discussion.

- **Non-regional parks and reserve land.** Currently the Council does not recover licensing-related cost for activities undertaken in non-regional parks and reserves. This applies to applications for markets in civic spaces, outdoor dining and mobile vendors.¹⁷

¹⁵ Activities regulated are: outdoor markets, mobile shops and temporary stalls, outdoor dining, outdoor displays of goods, offering of commercial services, distribution of promotional materials, street performance / busking and pavement art, and events and filming.

¹⁶ In accordance with the Reserves Act 1977, applications for some types of activity require public notification.

¹⁷ Approximately 50% of mobile vendors operate in parks and reserves and other public spaces. In these instances, the Council recovers part of the licensing cost if a legacy council fee is charged.



Under the new structure, a licence fee will be charged for all street trading activity, regardless of where the activity is undertaken. This strengthens alignment with the cost recovery principles in several respects: cost is recovered from those who give rise to it and the equity of the fee regime is improved.

- **Local Board involvement.** Some applications for street trading in parks and reserves are considered by the Local Board. This incurs expenditure over and above the Council's typical licensing-related costs. Council staff have a desire to recover the Local Board costs.

A variable hourly fee is recommended. Local Board involvement occurs infrequently and this argues against having a separate fee. There is significant variation in the time spent by Local Boards in the assessment of applications. This can range from less than one hour to several hours (cost varies from the low hundreds to several thousand dollars as a result). A drawback of the variable fee (outweighed by the benefits in this instance) is the fee payer has less certainty about the amount payable.

- **Regional parks.** The Council currently charges an application or renewal fee for activity in regional parks (\$270 each). Under the new fee structure, a fixed licence fee will apply for non-publicly notified activities, and a variable fee will apply for publicly notified activities.

The Council has separate assessment processes for each. The majority of applications relate to non-publicly notified licences and take similar amounts of time to process. In comparison, applications for publicly notified licences are less frequent and the time to process varies significantly (6 – 22 hours).

- **Mobile vendors and temporary stalls.** Some legacy councils differentiate charges for mobile vendors and stalls depending on what they sell (eg newspapers, flowers or food).

Under the new fee structure, the same licence fee will apply regardless. The type of product sold has no bearing on the level of licence-related cost incurred by the Council. Vendors selling food have to comply with the Council's food safety regime and a separate fee is charged for this.

- **Markets.** The Council has a choice between charging a licence fee to the market operator and / or the individual market stall holders. Different approaches are adopted by legacy councils and authorities across NZ.

It is recommended the licence fee be charged to the market operator only (and not to stalls). This approach results in a single transaction for the Council and one point of contact regarding licensing matters (compared to the alternative of charging each individual stall holder). This is consistent with other regulatory approaches. The market operator is responsible for event management (eg security, traffic and indemnity insurance) and resource consent (if required). A drawback to this approach is some compliance cost is passed onto the market operator (eg they have to recover their costs from multiple stall holders).



The option of charging a licence fee to both market operator and stall holders was considered but discounted. In addition to multiple fee transactions for the Council, there is no simple basis for splitting the licence fee between market operator and stall holder.

In the past, community markets¹⁸ have requested an exemption from paying the licence fee. It is recommended that fee levels do not differentiate by market type. Total market licence volumes are low (twelve) and it is difficult to set criteria to identify a community market. An alternative is to grant dispensations to community-based markets on a case by case basis.

- **Fundraising for a charitable cause.** Under the new bylaw, the Council is able to recover its cost associated with licensing fundraising activity. Two reasons argue against the Council doing this. Firstly, a third-party organisation currently manages the bulk of fundraising activity throughout the Auckland region. They ensure not-for-profit organisations undertake fundraising activity on different days. The level of activity is managed so that it does not adversely impact on members of the public. As a result, the Council's licensing-related activity (and cost) involves only minimal administrative effort. Secondly, the Council is supportive of minimising compliance costs for not-for-profit organisations. The People's Panel survey¹⁹ also indicates high support for this approach.

Fees requested by Council staff to inform decision making

62 At the time of the Review, the Council was still assessing the merits of alternative compliance approaches for several street trading activities, and staff requested that some specific fees be included to inform its decision-making. Ultimately, the Council may decide not to proceed with implementing these fees. Fees were requested for the following activities.

- **Street performance / busking and pavement art.** The Council's primary purpose of regulating this activity is to manage the volume and location of performances. The Council is considering whether to licence busking activity, or undertake a monitoring role only. Cost incurred as a result of any licensing activity is expected to be minor (eg no inspection is required).
- **Outdoor displays of goods.** This activity is not currently licensed by any legacy bylaw. The Council is considering whether the benefits of licensing outdoor displays outweigh the expected administrative costs. As at July 2014, the Council estimates there are approximately 4,000 shop displays across the Auckland region and additional bylaw officers would be required to undertake licensing activity.

Council staff have requested two alternatives for charging a fee: the first option is a licence fee for all outdoor displays and the second option is a dispensation fee charged

¹⁸ Example is a garden group selling local produce.

¹⁹ People's Panel: Trading in public places survey, April 2013. 80% of respondents supported no fee for not-for-profit-related activities.



only when the Council permits an outdoor display which is non-compliant with bylaw specifications.

- **Distribution of promotional materials.** This activity is currently regulated under some legacy bylaws but, in all instances, no fee is charged. The Council's current approach is that it does not permit this type of activity to take place. In the future however, the Council may permit some level of activity and, as a result, has asked for a licence fee.
- **Commercial sex workers.** The trading in public places bylaw may regulate commercial sex workers who advertise their services in public places. As a result, bylaw officers would be required to operate outside of normal business hours when the bulk of street prostitution activity occurs. Council staff requested that a fee be developed in line with an anticipated increase in licensing-related costs.

After further consideration, no additional cost was incorporated into fee levels. The additional bylaw officer activity was expected to be monitoring and enforcement based (as opposed to licensing). Consistent with the cost recovery approach used, monitoring and enforcement activity has mainly public good characteristics and is therefore rates, rather than user-charges, funded.

Costs related to licensing street trading activity

- 63 The Council currently incurs cost of approximately \$0.390 million for undertaking licensing-related activity for outdoor dining, mobile vendors, temporary stalls and markets. Approximately 2.5 full time equivalent (FTE) personnel are required to administer this.²⁰ Under the trading in public places bylaw, the Council expects to incur a similar level of cost for these same activities.
- 64 The Council may incur additional cost if it decides to licence other street trading activities.²¹
- If outdoor displays of goods are licensed, the Council expects additional bylaw officers (1.5 FTE staff) will be required to administer the high number of licences. Costs would increase by approximately \$0.260 million per annum as a result.
 - Alternatively, if the Council requires a dispensation for non-compliant shop displays (instead of licensing all displays), costs increase but by a much smaller margin (approximately \$0.025 million per annum, 0.15 FTE staff).
 - If street performances and distribution of promotional materials are licensed, the Council expects a further small increase in licensing cost (approximately \$0.025 million per annum, 0.15 FTE staff).
- 65 Currently there is variation in the way licences are processed across the Council. This occurs within the Licensing and Compliance department as a result of different legacy council practices, and across the Parks and Reserves and Licensing and Compliance

²⁰ Personnel comprise mix of bylaw officers and parks personnel.

²¹ For the purposes of costing activities which are not currently licensed, assumptions are made about the level of administrative effort necessary to process licences, including whether inspections are likely to be required.



departments. The Council expects to standardise its licence-related processes by 2015 and, as a consequence, variations in processing costs will be small.

66 Figure 1 shows the cost incurred by the Council for specific licensing activities, based on a standardised processing approach. For reasons discussed later, adjustments are made to the cost levels in order to arrive at the final fee amounts. Table 5 sets out the assumptions used to derive the costs.

Figure 1: Street trading cost and fee revenue

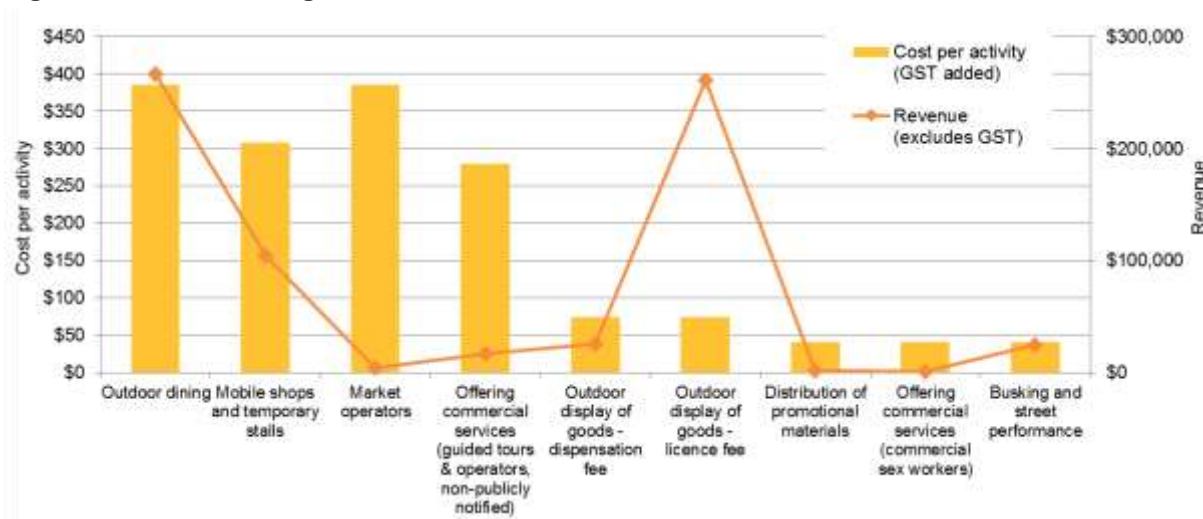


Table 5: Street trading cost assumptions

Activity	Volumes			Average process time per licence (hours)	Total effort (FTE)	Notes
	2011/12	Adjustment	Total			
Outdoor dining	549	246	795	2.75	1.75	Volumes based on audit of activity across Auckland region as at July 2014.
Mobile shops and temporary stalls	391	0	391	2.20	0.70	
Market operators	2	10	12	2.75	0.03	Volumes include markets in open civic spaces.
Offering of commercial services (guided tours and operators, non-publicly notified)	-	70	70	2.00	0.10	Volumes estimated as at July 2014.
Outdoor display of goods – licence fee	-	4,000	4,000	0.50	1.60	Volumes estimated as at July 2014. Assumes minimal travel and inspection time required.
Outdoor display of goods – dispensation fee	-	400	400	0.50	0.15	Volumes based on 10% of shop displays as at July 2014. Similar licencing processing time as above.
Distribution of promotional materials	-	50	50	0.25	0.01	Assumes no inspections required.
Offering commercial services	-	30	30	0.25	0.01	Assumes no inspections required.
Busking and street performance	-	700	700	0.25	0.15	Assumes no inspections required.



Signage fees

- 67 The signage bylaw uses a different licensing approach to the trading in public places bylaw. In the majority of instances, signs can be displayed without permission from the Council providing they are compliant with bylaw specifications. Licences are only required (but not always granted) when the signage is non-compliant with the bylaw.
- 68 Consistent with this approach, dispensation fees are recommended. The fee is only charged for applications to display non-compliant signage. The Council expects relatively low application volumes (approximately 50 per annum).²² The majority of applications are expected to relate to large signs in central Auckland.
- 69 The Council considers issues relating to amenity²³ when assessing an application for signage dispensations. Because of this, applications are processed by the Council's planning department (as distinct from the Licensing and Compliance department). The timeframe for processing applications varies significantly; between one and four days.
- 70 The Council currently incurs approximately \$0.050 million (0.20 FTE planning personnel) of cost to process signage dispensations. The cost of individual applications varies between \$1,500 and \$4,500. This includes administration, inspection and travel related expenditure.
- 71 Given the range of assessment times (and associated cost), a variable dispensation fee is recommended. A fixed fee, while providing more certainty to the fee payer about the amount payable, would have the undesirable effect of introducing significant levels of cross-subsidisation between fee payers and breaches several other cost recovery principles.²⁴
- 72 The variable fee can be charged in the same way that the planning department currently charges for its other fees.²⁵ This involves a deposit of \$1,500 at the time of application (reflecting the minimum amount of cost usually incurred by the Council). Once a decision is reached, a wash-up payment / refund is calculated based on actual cost incurred. Under the new signage bylaw, the Council anticipates total fees payable will be similar to current levels (\$1,500 to \$4,500 per application).

Animal management fees

- 73 The animal management bylaw uses the same licensing approach as the trading in public places bylaw. Consistent with this, a licence fee is recommended.
- 74 The fee recovers the Council's cost associated with administration, inspection and travel. The average timeframe for processing licenses is estimated to be one and a quarter hours.

²² Volumes based on levels as at July 2014 and exclude events-related signage and billboards. Local Boards have authority to prohibit signs in their ward for portable signs, posters, cross street banners and event signage. Volumes have not been adjusted for this as the potential impact is unknown.

²³ In the bylaw, amenity means the natural or physical qualities and characteristics of an area which contributes to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

²⁴ Examples where alignment with the cost recovery principles is weakened include: fee payers in similar circumstances paying the same amounts, and fees charged according to who gives rise to the cost / benefits from the service.

²⁵ Examples include resource consent fees and current signage dispensation fees.



Low volumes of licences are anticipated (less than 10) and the overall cost to the Council for undertaking licensing-related activities is minor (less than \$0.010 million).

- 75 Based on full cost recovery, the animal management licence fee is \$223 (adjustments are made to this in order to calculate the final fee level).

Fire permit fees

- 76 The objective is to ensure a safe fire location. The Council is still developing its compliance approach in support of this. One option under consideration is to mandate fire permits, but not charge a fee. The experience of the NSCC legacy council is their fee (\$96) discouraged compliance and, as a result, they stopped charging it.
- 77 Council staff have requested a fixed fire permit fee be calculated to inform its decision making. The fee, if implemented, will recover cost associated with administration, inspection and travel. The average timeframe for processing permits is one hour and approximately 360 permits are expected to be issued. The cost to the Council for undertaking permit-related activity is estimated to be approximately \$0.040 million.
- 78 Based on full cost recovery, the fire permit fee would be \$137 (adjustments are made to this in order to calculate the final fee level).

Rationalising fees further – use of fee banding

- 79 While the number of new bylaw fees recommended is significantly less than the legacy fees, there is opportunity to further rationalise the fee structure using fee bands.
- 80 In the EH fee review, the option of introducing a single licence fee, which covers all licensing activities, was considered. From an administrative and fee payer perspective, this approach is very simple.
- 81 However, the approach disregards the significant variation in the amount of effort (and cost) associated with processing different applications. A single licence fee introduces undesirable levels of cross subsidisation between activities. Also, new health and hygiene fees are based on a combination of cost and risk. A single licence fee means there is no differentiation in the fees charged from a risk perspective.
- 82 For these reasons, the use of fee bands is recommended as an effective method for balancing the trade-offs between having more fees (increased administrative cost) or less fees (increased levels of cross subsidisation).
- 83 The Council has introduced the new health and hygiene fees using a banding of \$60. This strikes a good balance between minimising the level of cross subsidisation and further reducing fee numbers. For consistency, it is recommended that the same band be used for all environmental health and bylaw fees.



Licence fee levels

Table 6 lists the recommended bylaw fees, after fee banding is applied. For comparison purposes, Appendix 4 lists all environmental health and bylaw fees (same banding used).

Table 6: Recommended bylaw fees

Recommended bylaw fees	Fee levels (including GST)	Fee revenue (excluding GST)	Volumes of fees charged
Recommended fees			
Outdoor dining	360	248,870	795
Mobile shops and temporary stalls	300	102,000	391
Market operators	360	3,757	12
Offering commercial services (guided tours & operators, non-notified activity)	300	18,261	70
Fire permit	120	38,296	367
Animal management	240	1,878	9
Signage dispensations	actual cost	40,000	50
Local Board involvement in licence applications	actual cost	-	-
Offering commercial services (guided tours & operators, publicly notified activity)	actual cost	-	-
Fees requested by Council to inform decision making			
Outdoor display of goods - dispensation fee	60	20,870	400
Outdoor display of goods - licence fee	60	208,696	4,000
Distribution of promotional materials	60	2,609	50
Offering commercial services (commercial sex workers)	60	1,565	30
Busking and street performance	60	36,522	700

Comparison with other councils

84 Table 7 compares the bylaw fees with those charged by the Wellington City Council and Christchurch City Council. Councils have different bylaws and approaches to funding the underlying fee activities. This needs to be kept in mind when considering the differences in fee levels.



Table 7: Comparison of bylaw fees with other councils

	Auckland Council	Christchurch City Council (2013/14 fee)	Wellington City Council (2013/14 fee)
Outdoor dining	\$360	Included in rental charge	Application fee \$190 plus licence fee \$95. Special application fee \$270
Mobile shops and temporary stalls	\$300	Temporary stall licence fee \$80 Mobile vendor licence fee \$129	Application fee \$310 plus licence fee \$410
Market operators	\$360	Fees not published on website	Fees not published on website
Offering commercial services (guided tours & operators) ²⁶	Non-publicly notified \$300 Publicly notified – actual cost charged	Fees set on discussion with Environment Canterbury (ECan)	Administered by Wellington Regional Council: No fees for non-commercial activities or events with < 150 participants Commercial activities > 150 participants \$175 application fee and \$50 renewal fee
Fire permit	\$120	Fires not permitted at any time without a resource consent from ECan (minimum cost \$1,472)	Urban fire permit \$25. Developer fire permit \$50 per hour
Signage -related fees	Actual cost charged		No fee for street banners (only rentable by Council strategically-aligned events, community events and not for profit events) Sandwich board application fee \$105 or \$180 depending on location
Outdoor display of goods	Licence fee \$60 Dispensation fee \$60		
Distribution of promotional materials	\$60	Application fee \$197	
Offering commercial services (commercial sex workers)	\$60		
Busking and street performance	\$60	Licence fee \$35	
Fundraising	-	Licence fee \$57	

85 Appendix 6 compares the total amount of fees and charges with legacy councils and other authorities. It illustrates the change in user-charge levels across the Auckland region as a result of the new regime.

²⁶ Department of Conservation application fee varies between \$593 and \$725.



5 NEW RENTAL CHARGES

86 Auckland Council has a desire to introduce a new charge for the use of public space for commercial gain (“rental charge”). Council staff have asked MartinJenkins to consider options for introducing a rental charge and recommend charging levels.

87 This section of the report consists of two parts. The first part summarises key factors and alternative approaches for establishing a rental charge. The second part calculates the level of the rental charge for street trading and signage-related activities.

Relevant factors

88 Rental charges generate third-party revenue for the Council and can be used to offset the level of rates funding required. They are different to licence and administrative fees which, in comparison, are used to recover the cost of the Council’s underlying activities.

89 A rental charge is applied when public space is used for commercial gain. The objectives of the charge are to:

- compensate for the loss of access or use of public space
- recognise that there is benefit to those who are using the public space for commercial purpose.

90 The Council has a choice about the level at which rental charges are set. It can try to maximise revenue by charging at the highest level, but risks adversely impacting the economic viability of street trading. Alternatively it can set charges lower and forego some potential revenue. If charges are too low, though, the Council risks subsidising third-party commercial activity on public land.

91 Several factors influence the level of the rental charge.

- Size: The charge is higher where more space is used for commercial purposes.
- Length of time: The charge is higher when the public space is used for commercial purposes for a longer period.
- Volume of people: The impact arising from the commercial use of space is greater when the space is in high use by the public (and this is reflected in the level of the charge). There is also potentially greater benefit to the street trader when there are more people about. Location and day of the week are also important. There are more people, for example, in the CBD versus a small town centre, and on particular days of the week.
- Degree of loss of use: The charge is higher for commercial activities resulting in a total loss of space for the public, compared to when the public still have partial access (eg signage above a footpath versus a coffee cart on a footpath).

92 There is competition between shops and mobile vendors and stalls. Both can sell the same product, but compared to street trading, shops have a fixed location and higher overhead



costs (leases, rates, utilities). This is offset by tenancy arrangements being less restrictive than council requirements (eg hours of operations, use of space, signage and music). Rental charges have the potential to impact the relative balance between cost and Council requirements.

- 93 The bylaw is the Council's primary mechanism for regulating the type, level and location of street trading and signage activity. The rental charge is not intended to act as an economic method to manage the use of public space (the bylaw sets rules about use). Nor is it intended to compensate for potential damage done to the space used (for certain activities the Council requires a bond).

Options for setting rental charges

- 94 A number of councils and overseas authorities have introduced a rental charge for street trading and signage activity. Several different approaches are used and no one methodology is best-suited for all types of activity.²⁷ Some approaches are formula-based relying solely on market data. Others take broader considerations into account like willingness to pay and political appetite for charging.
- 95 Alternative approaches can result in different levels of rental charges for the same activity. Outdoor dining is one example. Wellington City Council set charges on the basis of comfort and political preferences, rather than a well-defined technical framework²⁸ and have adopted a two tiered approach (CBD \$90m² and suburbs \$59m²). In comparison, Queenstown Lakes District Council (QLDC) designed a five tier charging structure based predominately on the valuation of surrounding land (\$185m² and \$35m² for the highest and lowest tiers respectively).
- 96 There are common issues that arise across each of the approaches. Public space is owned by the Council and is not generally traded. There is limited market information available to inform the valuation of public space, or what an appropriate rental charge should be.
- 97 Many approaches use commercial valuations as a starting point and apply a discount factor to reflect that the rental charge is for public space. This introduces a level of subjectivity into the calculation process. The rental charge ultimately ends up being based on the exercising of judgment. QLDC proposed its outdoor dining rental charge on advice from a registered property valuer (\$185m²). A separate appraisal was later calculated for the same rental charge that resulted in a 70% lower figure (\$55m²).²⁹
- 98 Some options are not feasible due to a lack of data. Commercial market information is rarely publicly available and sometimes information is specific to individual circumstances (eg individual tenancy arrangements).

²⁷ Examples of different approaches include research commissioned by the Bay of Plenty regional council on possible charging methodologies for the coastal occupation charge under the RMA 1991 s(64).

²⁸ Queenstown District Lakes Council, Finance and Corporate Committee agenda for meeting of 21 February 2012.

²⁹ <http://www.stuff.co.nz/business/industries/7549271/Pavement-tax-threatens-outdoor-dining>, 26 August 2012.



Options considered

- 99 Four main options (including sub-options) have been identified for setting a rental charge, each with their own advantages and drawbacks. These are as follows.
- **Option One: Direct market comparison.** Rental charges are based on the market rates for comparable types of activity. This can include commercial arrangements on private land, or comparable activities on public land charged by the Council.
 - **Option Two: Adjacent land values.** Where it is not possible to set rental fees using a direct market comparison, an alternative is to use commercial land values as a basis for valuing public land. Two sub-options for this are identified.
 - **Option Three: Customer volumes.** The nature of some types of activity means that it is not possible or practical to use Options One and Two. In these instances, a rental charge can be based on the number of customers involved in an activity (ie calculated on a per-person basis).
 - **Option Four: Turnover.** A final alternative, if no other options are suitable, is to base the rental charge on the proportion of turnover resulting from the commercial use of public space. Two sub-options are identified.
- 100 Table 8 summarises the various sub-options involved.



Table 8: Options for setting rental charges

Options	Approach used by
Option One: Direct market comparison	
<p>Option One (A): Commercial arrangements on private land The rental charge is based on commercial arrangements for similar types of activity carried out on private property. Examples include leasing private car parks for markets, or building frontages for a coffee cart. A discount factor is applied to the commercial rates to take into account the Council licensing conditions are more restrictive compared to private tenancy arrangements.</p>	Queenstown Lakes District Council – outdoor dining ³⁰
<p>Option One (B): Existing council charges The rental charge is based on comparable types of activity that the Council currently charges for. Parking charges are a good example of the Council charging for private use of public space. Car park charges also apply in many of the same locations that mobile vendors and other street trading activity occurs.</p>	Wellington City Council – mobile vendors
Option Two: Adjacent land values	
<p>Option Two (A): Surrounding commercial land The rental charge is based on the value of surrounding commercial land. Rental charges can be differentiated by location (eg groups of suburbs). Two discount factors are applied to reflect the more restrictive nature of the Council licensing conditions (compared to land ownership) and loss of access / use of the public space.</p>	Approach recommended to Environment Bay of Plenty for setting marine occupation charge under RMA s(64) ³¹
<p>Option Two (B): Fee payer’s tenancy arrangements The rental charge is based on the fee payer’s tenancy agreement. The rate in the tenancy agreement is discounted to reflect the public space has no improvements (it is land only), and has a higher level of restrictions placed on its use (compared to the private tenancy arrangements).</p>	Christchurch City Council – outdoor dining
Option Three: Customer volumes	
No sub options.	Auckland Council – guided tours and operators in regional parks
Option Four: Turnover	
The rental charge is calculated as a proportion of the business’ income (turnover) or profit (eg EBITA) arising from commercial use of public space. Income or profit can be estimated over a single year period or by calculating the discounted cash flow over several years.	New Plymouth District Council – mobile vendors Auckland Council – beehives in regional parks

³⁰ QLDC consulted on this approach but, as at July 2014, do not appear to have implemented the charges.

³¹ Property Solutions BOP Limited: Coastal Occupation Charges Report to Environment Bay of Plenty, February 2005.



Calculating street trading and signage rental charges

- 101 The remainder of this section:
- identifies the street trading and signage activities that incur a rental charge
 - assesses the feasibility of options identified for setting a rental charge
 - summarises key design principles
 - calculates the level of the rental charge.

Activities where rental charge applied

Street trading

- 102 There are choices about whether a rental charged is applied to all, or some, types of street trading activities. Council staff have a strong desire to charge for:
- outdoor dining
 - mobile shops and temporary stalls (not market stalls)
 - market operators³²
 - offering commercial services (guided tours and operators in parks and reserves).
- 103 There is strong rationale for charging a rental component for these activities. Together, they comprise the majority of street trading activity and, by far, are the largest users of public space for commercial gain. Each of the activities restrict the access to, or use of, public space and there is a clear benefit to the street trader in the use of the public space. The charging structure is consistent with the licensing fee regime. The marginal cost to the Council for administering a rental charge on top of the licensing regime is small.
- 104 As noted earlier, the Council is still considering its compliance approach for some street trading activities. In light of this, Council staff have requested rental charges be calculated for some specific activities but, ultimately, they may decide not to proceed with implementing these charges in the future.
- **Outdoor displays of goods.** There are two options for introducing a rental charge, depending on the degree of alignment the Council wants with the licensing regime. The rental charge can apply to all shop displays, or only those permitted by Council and which are non-compliant with bylaw specifications. While displays are relatively small (the bylaw permits a display width of no more than 0.6m²), rental charge revenue could be significant given the large volumes of activity.

³² There is an option to charge the market operator and / or individual stall holders. For the same reasons discussed in the cost recovery fees section, it is recommended the rental charge be applied to the market operator.



- **Distribution of promotional materials.** Low volumes of activity are expected and a minimal amount of public space is used. Resulting rental charge revenue would be minor as a result.
- **Busking / street performance.** Although there are possible issues with ability to pay, the current volume of activity could justify a charge being introduced.

Signage

- 105 Council staff have a desire to introduce a rental charge for commercial signs placed on, or above, public space. Two factors limit the extent to which a rental charge can be applied. Firstly, Local Boards have authority to prohibit the use of signs in their area (eg no portable signs are allowed in central Auckland). Secondly, only a few types of signs are placed on, or above, public space and therefore subject to a rental charge. The majority of signs are placed on private land or buildings (eg real estate signs).
- 106 As a consequence, a rental charge would only apply when the following types of signage is placed on, or above, public space:
- portable signs / flags
 - sandwich boards
 - posters
 - horizontal cross-street banners.

Assessment of charging options

- 107 Of the options and sub-options identified, some can be readily discounted as they cannot be used to calculate street trading or signage charges. In the case of street trading, insufficient availability of data rules out two options. For signage, three options are not fit-for-purpose.
- 108 Each of the remaining options can be used to calculate the rental charge for at least one activity. In some cases, multiple options can be used and the Council has a choice about which approach to use, as shown in Table 9. Appendix 5 assesses the options further and sets out the assumptions used to calculate the rental charges.

Table 9: Option selection

Charging option	Street trading	Signage
Option One: Direct Market Comparison		
Option One (A): Commercial arrangements on private land	✗ Approach not feasible – insufficient data available.	✓ Used to set rental charges for posters and horizontal cross-street banners.
Option One (B): Existing Council charges	✓ Used to set rental charges for mobile shops and temporary stalls.	✗ Approach could be used for sandwich boards and portable signs, but is not the Council's preferred option.



Charging option	Street trading	Signage
Option Two: Adjacent land value		
Option Two (A): Surrounding commercial land	✓ Council's preferred approach. Used to set rental charges for outdoor dining, market operators, outdoor displays of goods, busking / street performance and distribution of promotional materials.	✓ Council's preferred approach. Used to set rental charges for sandwich boards and portable signs.
Option Two (B): Fee payer's tenancy arrangements	✗ Approach not feasible – insufficient data available.	✗ Approach not feasible – insufficient data available.
Option Three: Customer volumes		
	✓ Options Two and Three are not practical for setting charges for guided tours and operators in regional parks. The Council currently has a system in place for charging on a volumes basis.	✗ Nature of activity means there are no customers.
Option Four: Turnover		
	✓ There is a small amount of remaining activity undertaken in regional parks (eg beekeeping). None of the above options are viable and the Council currently charges on a turnover basis.	✗ Not practical to attribute turnover to signage.

Key design principles

- 109 Rental charges have been designed with a set of overarching principles in mind. The principles have regard to several facets: the 'relevant factors' discussed earlier in the section; specific Council requirements; application of relevant cost recovery principles;³³ and a desire to align charges with the licensing fee regime.
- 110 Charges for the majority of street trading and signage activity are set in a consistent manner. The overall premise is to set the rental charge according to four factors.
- **Location of activity.** Suburbs are grouped into three categories (referred to as Tiers 1, 2 and 3) and a different rental charge rate is applied to each.³⁴

³³ Many of the cost recovery principles have relevance to the assessment of the charging options: the amount payable is transparent; fee payers are charged the same amount in similar situations; the methodology used to set fees is transparent; and the Council can administer the fees efficiently.

³⁴ Table 14 in Appendix 5 provides further information on the approach used to group suburbs into the three tiers.



This approach balances practical considerations with Council staffs' desire to have between three and six location-based charges. The majority of street trading and signage activity occurs in a small number of suburbs. More than three tiers adds unnecessary complexity to the charging regime. Fewer tiers result in an undesirable level of aggregation to the valuation data used in the calculation of rental charges (and negates the advantages of having location-based charges).

- **Amount of public space used.** Charges are expressed on a per metre-squared basis.
- **Permitted operating hours.** The Council sets the hours that an activity is permitted to operate within as part of issuing a licence, and charges reflect this.³⁵
- **Type of public space.** The same rental charge applies regardless of the nature of the public space used (eg road reserve, non-regional parks, footpaths etc). This is consistent with the licensing structure and streamlines the charging regime for Council and fee payers alike.

111 There are exceptions to the way some rental charges are set. These arise in certain circumstances as follows.

- Rental charges do not differentiate by location where the:
 - majority of activity takes place solely in one area (eg busking which occurs predominantly in the CBD)
 - overall volume of activity is sufficiently low that location-based rental charges are not warranted (eg distribution of promotional materials).
- A fixed rental charge applies where:
 - an activity always uses the same amount of space (eg sandwich boards and portable signs)
 - measuring the amount of space is likely to result in undesirable levels of administrative effort on the part of the Council (eg the large volume of shop displays).
- The methodology used to set the rental charge does not align with the design approach. Examples include activity in regional parks (charged on a per-person or gross turnover basis) and posters and horizontal cross-street banners (charged by negotiation with Council).

³⁵ An option to differentiate charging levels by the day of the week was considered but discounted. The volume of charges would increase (adding more complexity to the charging regime), and no simple basis existed to determine the days that should be charged at a higher or lower rate.



Recommended rental charges

112 Table 10 sets out the level of the recommended rental charges³⁶ and expected revenue generated³⁷ based on volumes as at July 2014. Charges have been rounded for administrative ease and include GST.³⁸ Appendix 5 describes the key assumptions used in the calculation of the rental charges.

Table 10: Recommended rental charges

Recommended rental fees		Level of rental charge (including GST)		Revenue generated (excluding GST)	Volumes of activity		
					average size (m ²)	operating hours	volumes
Outdoor dining	Tier one	\$140.00	per m ² per annum	291,200	13		184
	Tier two	\$ 85.00	per m ² per annum	392,035	13		408
	Tier three	\$ 20.00	per m ² per annum	45,896	13		203
Mobile vendor and temporary stalls	Tier one	\$ 0.30	per m ² per hour	22,414	8	2,685	4
	Tier two	\$ 0.20	per m ² per hour	74,713	8	2,685	20
	Tier three	\$ 0.05	per m ² per hour	342,746	8	2,685	367
Market operators	All locations	\$ 0.35	per m ² per day	56,974	300	52 days	12
Offering commercial services (guided tours and operators)	Regional parks	Per person charge varies from \$0.80 to \$4.05 (average \$1.80), or 10% of gross turnover		36,263			
Outdoor displays of goods	Tier one	\$305.00	per annum per display	106,087			400
	Tier two	\$195.00	per annum per display	203,478			1,200
	Tier three	\$ 40.00	per annum per display	83,478			2,400
Distribution of promotional materials	All locations	\$ 75.00	per annum per distributor	16,304			50
Busking / street performance	All locations	\$ 75.00	per annum per person	45,652			700
Sandwich boards and portable signs	Tier one	\$ 75.00	per annum per sign	32,609			500
	Tier two	\$ 50.00	per annum per sign	65,217			1,500
	Tier three	\$ 10.00	per annum per sign	26,087			3,000
Posters and horizontal cross-street banners	All locations	By negotiation with Council					

³⁶ MartinJenkins has not been required to assess the level of charges relating to regional parks.

³⁷ Average outdoor dining space is based on ACC data. Average mobile vendor and temporary stall size is based on estimates. Average permitted operating hours are based on an average of four licences provided by the Council. Allocation of volumes across the three tiers is based on a Council activity audit and an estimate of volumes for outdoor dining and mobile vendors / temporary stalls respectively. Volume data current as at July 2014.

³⁸ Per annum charges are rounded to the nearest five dollars. Hourly and daily charges are rounded to the nearest five cents.



Recommended rental fees	Level of rental charge (including GST)	Revenue generated (excluding GST)	Volumes of activity	
			average size (m ²)	operating hours
Total revenue		1,841,153		

113 In Table 10, suburbs are grouped into the three tiers as follows:

- **Tier 1:** Auckland CBD
- **Tier Two:** Orewa, Browns Bay, Takapuna, Birkenhead, Devonport, Ponsonby, Herne Bay, Freemans Bay, Mission Bay, Grey Lynn, Newmarket, Milford, Eilerslie, Howick, Epsom, Kingsland, Mount Eden, Newton, Parnell, Remuera, St Heliers
- **Tier Three:** All other suburbs.

Comparison with other councils

114 Table 11 compares the rental charges with other councils, including Wellington City Council and Christchurch City Council.³⁹ While there are differences in the level of charges for many activities, it is difficult to make a direct comparison. Councils have different rationale for determining whether to charge a rental component. Where a charge is set, the level of the charge may also reflect different underlying land values.

Table 11: Comparison of rental charge with other councils

Activity (GST included)	Auckland Council (recommended)	Christchurch City Council	Wellington City Council	Other comparators
Outdoor dining	Three location-based tiers ranging from \$20 - \$140 per m ² per annum	30% of business premise's tenancy cost Average of \$110 ⁴⁰ per m ²	\$90 per m ² per annum – central, \$59 per m ² per annum – suburbs	Hamilton City Council \$132 per table per annum Tauranga City Council free for maximum two tables. More tables by negotiation
Mobile shops and temporary stalls	Three location-based tiers ranging from \$1.00 - \$7.35 per m ² per day	No charge	\$40 per day, adjustable for size and other factors Equivalent to \$5 per m ² per day ⁴¹	Hamilton City Council \$120 per annum. Equivalent to \$0.04 per m ² per day
Market operators	\$0.35 per m ² per day of operation	By negotiation, charges not published on website	By negotiation, charges not published on website	Organisers of private market in Pakuranga Plaza car park charge stalls \$40 - \$150 per night Hamilton City Council markets \$145 - \$355 per annum

³⁹ Based on information published on council websites, 2013/14 levels.

⁴⁰ <http://www.stuff.co.nz/business/industries/7549271/Pavement-tax-threatens-outdoor-dining>, 26 August 2012.

⁴¹ Assumes average mobile vendor size is 8m².



Activity (GST included)	Auckland Council (recommended)	Christchurch City Council	Wellington City Council	Other comparators
Offering commercial services (guided tours & operators)	Per person charge varies from \$0.81 to \$4.05, average charge \$1.79	Set on discussion with Environment Canterbury (ECan)	Administered by Wellington Regional Council Per person charge \$5 guided walking, \$5 competitor (events), \$15 per motorbike	Department of Conservation per person charge \$11.50
Outdoor display of goods	Three location-based tiers ranging from \$40 - \$305 per annum	No charge	No charge	Hamilton City Council \$110 per m ² per annum
Distribution of promotional materials	\$75 per annum per distributor	No charge	No charge	Tauranga City Council \$10 per day
Busking and street performance	\$75 per annum	No charge	No charge	Tauranga City Council \$5 per day or \$25 per year
Sandwich boards and portable signs	Three location-based tiers ranging from \$10 - \$75 per annum per sign	No charge	No charge	Hamilton City Council \$200 per annum per sandwich boards
Posters and horizontal cross-street banners	By negotiation		Street banners based on industry rates	Hamilton City Council set using industry rates

115 Appendix 6 compares total user-charges with legacy councils and other NZ authorities.



6 TRANSITION ARRANGEMENTS

- 116 The proposed user-charges result in increases to most fee levels in each of the legacy council areas. Rental charges are the main reason for this.⁴² ACC was one of the few legacy councils which had rental charges, but rates were generally lower than levels recommended in this report. The majority of the other legacy councils either had no rental charge, or had one but did not apply it.
- 117 The actual impact of the recommended rental charges vary according to individual licence conditions imposed by the Council. Based on a selection of actual licence examples (provided by Council), the average increase for outdoor dining is 90%, or \$1,272. For mobile vendors and temporary markets it is 255%, or \$2,423. Table 16 and Table 17 in Appendix 6 shows the impact of the recommended user-charges on the individual licences provided by the Council.
- 118 It is important to note the increases cited above are based on a relatively small sample of licences, as a proportion of total licences issued by the Council. The amount of the average increase is likely to differ if a greater sample of licences are considered.
- 119 The earlier EH fee review⁴³ resulted in the need for a transition plan for new food licensing fees. The Council is in the process of phasing in these new fees over a five year period. It is recommended the same approach is applied to the introduction of the recommended user-charges.
- 120 Administering the transition arrangements increases complexity for the Council, but there are a number of benefits that outweigh this. The phased approach ensures fee payers are given time to adjust to the new levels of user-charges and the Council is able to assess the impact on the volumes of street trading and signage activity. The Council has the option of capping increases at a point in time if it appears the rental charges are having an undesirable impact on levels of activity.

⁴² In a number of cases, harmonisation of licence fees lead to the introduction of a fee where none previously existed.

⁴³ MartinJenkins: Environment Health and Animal Management Fees, October 2012.



APPENDIX 1: GLOSSARY OF PHRASES

- **Legacy council** refers to each of the former territorial local authorities:
 - ACC: Auckland City Council
 - FDC: Franklin District Council
 - MCC: Manukau City Council
 - NSCC: North Shore City Council
 - PDC: Papakura District Council
 - RDC: Rodney District Council
 - WCC: Waitakere City Council
- **Fee structure** includes the type of fee (eg licence for outdoor dining), the basis for paying the fee (eg variable fee charged by amount of space used) and the dollar value of the fee.
- **Licence** includes a permit or written approval by the Council to do something.
- **Licensing activities** refers to the range of activities undertaken as part of licensing a premise / service (eg inspections and associated administration activity).
- **Fee category** refers to the particular groups of activities that are licensed (eg outdoor dining, mobile vendors, temporary stalls etc). There are multiple legacy fees within each category.
- **Cost recovery fee** is charged by the Council to recover its cost for an underlying activity (eg a licence fee recovers cost of licensing activities).
- **Rental charge** is charged by the Council for the use of public space for commercial gain. It is distinct from cost recovery fees.
- **Integrated Bylaw Review and Implementation Programme (IBRI)** is reviewing each of the legacy bylaws to develop an integrated set of bylaws for Auckland Council.
- **New bylaws** or **integrated bylaws** refer to the new Auckland Council bylaws that have been adopted, or are in development, as part IBRI.
- **Legacy bylaws** are bylaws that were adopted by the legacy councils.
- **Public place** means a place that is open to, or used by the public that is freely available including a road, street, beach, regional and non-regional park or reserve. The place is managed, owned or under the control of the council or council controlled organisation (eg Auckland Transport).
- **Amenity** means the natural or physical qualities and characteristics of an area which contributes to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.



- **Trading in public places** means an activity undertaken by any person or organisation involving the sale of goods, or the performance of a service in a public place for payment.
- **Outdoor dining** means a road or other public place used by an adjacent business premise for the purpose of providing food or drink.
- **Mobile shop** means a vehicle, whether self-propelled or not, standing on a road or other public place where goods and services are offered for sale.
- **Temporary stall** means a stand, stall, structure, or contrivance, from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place and may include a mobile shop. It does not include stalls located as part of a market.
- **Market** means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and / or services are offered for sale or hire, whether for commercial or charitable purposes.
- **Market stalls** are stalls located within the market.
- **Outdoor display of goods** means the display of goods and / or services on a road or other public place associated with an adjacent business premise.
- **Commercial activity** refers to any activity or service conducted in a public place in exchange for payment or otherwise and includes the selling or hiring of any goods or services in the public place or at another location.
- **Event** means an organised temporary activity that takes place on one or more days (eg organised gathering, parade, protest, wedding, festival and concert or sports events such as a triathlon).
- **Market rent** means the amount that would be paid for rental of a similar property in a comparable condition and location.



APPENDIX 2: IN-SCOPE FEES

In Scope - Fee Group	Description - from LTP	Volume of fees (based on 2011/12)							2012/13 Fees (inc GST)							
		Total	ACC	FDC	MCC	NSCC	PDC	RDC	WCC	Total	ACC	FDC	MCC	NSCC	PDC	RDC
Keeping of bees and livestock	2 and up to 2 adult pigs	4							6						118	
	Over 2 and up to 50 adult pigs														139	
	Over 50 and up to 100 adult pigs														190	
	Over 100 adult pigs							4							251	
	(ii) Keeping of more than 12 head of poultry														118	
	Other fees and charges: Consent Fee - Keeping of bees															
Amusement galleries	Miscellaneous licences: Amusement galleries	0							2			223				
	Bylaw licences: Amusement Gallery													165		
Travellers accommodation	5 – 30 persons	0							3						139	
	32 – 50 persons													190		
	Over 50 persons													251		
Public buildings or places of public resort	A. Theatres and / or cinemas	7							11						164	
	B. Public halls (NOT AN ACTUAL FEE)															
	1. Public or commercial														164	
	2. Non-profit organisations														139	
	3. Churches or buildings used solely as places of worship															
	C. Grandstands and stadiums														164	
	D. Showgrounds							4							164	
	E. Circuses per month or part thereof							1							139	
	F. Public assembly in the open air or in marquees, tents or other temporary structures:(NOT AN ACTUAL FEE)															
	1a. For profit - Up to and including 2,000 persons for each day or part thereof							2							164	
	1b. For profit - Over 2,000 persons														\$164 plus \$26/1,000	
2. For non profit organisations for each day or part thereof														139		
3. For public worship																
Fire permit	Miscellaneous licences: Fire permit	0							1			96				
Hazardous substances	Hazardous substances – inspections: Bulk tank demolished	36							5	175						
	Hazardous substances – inspections: LPG storage tank installed									175						
	Hazardous substances – inspections: Storage tank installed		5							175						
	Hazardous substances – inspections: Tank removal		3							122						
	Hazardous substances – inspections: Test pipelines to bulk installations		28							133						
Signage	Bylaw dispensation (other than permanent signage): Temporary sign	36							9	138						
	Billboard: Billboard dispensation		8							159						
	Street trading - Banner									175						
	Street trading - Permanent banners - per annum									6382						
	Various other licence types: Temporary signs permit - general											262				
	Miscellaneous licences: Signs - Exceeding 1m2 under bylaw												132			
	Miscellaneous licences: Signs - All other signs under bylaw					5							74			
	Other fees: Single sandwich board approval per year														86	
	Street signs: Street sign approval per year							23							155	



In Scope - Fee Group	Description - from LTP	Volume of fees (based on 2011/12)								2012/13 Fees (inc GST)								
		Total	ACC	FDC	MCC	NSCC	PDC	RDC	WCC	Total	ACC	FDC	MCC	NSCC	PDC	RDC	WCC	
Outdoor display of goods	Occupation fee: business occupying public footpath	40								4						80		
	Street trading - Display of goods - per month										143							
	Miscellaneous licences: Display of goods exemption - application Fee					20								175				
Other	Miscellaneous licences: Display of goods exemption - m2					20							48					
	Bylaws licence - Special Events and Minimum Fee	0								2						506		
Outdoor dining	Bylaw licenses: Circuses (with menagerie)														504			
	Street trading: On-street outdoor seating (per m2 of site coverage)	549	6600m2 (496 applications)							5	69							
	Outdoor cafes in public places: Application fee					22							175					
	Outdoor cafes in public places: Annual licence fee - m2					132							48					
	Other fees - Street dining approval per year							4								155		
Mobile shops	Other fees & charges: Outdoor cafe areas								17								259	
	Street trading: Coffee vendors - per six months!	172	13							9	547							
	Street trading: Food Vendor - per month		11								387							
	Mobile shop Health Licence					53							191					
	Vendor - Mobile Shop Trading Permit					28							239					
	Mobile Shops/Roadside Traders (other charitable or community organisations) - first month							6								99		
	Mobile Shops/Roadside Traders (other charitable or community organisations) - per month after the first month															52		
	Trading in public places - licence fee: Mobile or travelling shop								7								260	
	Other licenses / registration: Mobile food vehicle			66								156						
	Other fees and charges - Mobile Shop Licence									16								135
Stalls	Street trading - Flower sellers- per month	219	31							15	387							
	Street trading - Newspapers - per seller, per site, per annum		12								122							
	Street trading: Pie carts, Newmarket - per month		1								1077							
	Street trading: Pie carts, Commerce Street - per month		1								1289							
	Street trading: Strawberry and vegetable vendors - per month		9								387							
	Trading in public places - Up to 6 months											81						
	Trading in public places - 6-12 months				52							146						
	Permits - trading in public places				10								191					
	Permits - markets and stalls												334					
	Other fees - Street trading approval per year							7								155		
	Non-food stalls (other than charitable or community organisations) - licence per event							1								48		
	Non-food stalls (other than charitable or community organisations) - annual															308		
	Food stalls: Food stalls - annual fee								63								260	
	Food stalls: Food stalls - one day up to and including 5 days free								10								143	
Other fees and charges: Food Stalls Licence									22								138	
Hawkers	Trading in public places - licence fee: Hawker	3							2		2					143		
	Other fees and charges - Hawkercs Licence									1							40	
Market operators	Trading in public places - licence fee: Commercial open air market (includes single stall) -	2							2		4					260		
	Market organisers licence (blanket licence held by market organiser covers stalls selling fruit, vegetables and uncooked eggs only)										159							
	Commercial open air market (includes single stall) - daily (or part thereof) permit															80		
Busking / street performance	Markets licence – excluding any individual vendor stall licences																182	
	Other fees and charges: Buskers Licence	0								1							182	
Other street trading fees	Street trading - Recycling bins - per annum	220								4	334							
	Street trading - Sports services vendors - per month		19								228							
	Street trading - Street Trading Application Fee		201								175							
	Application for dispensation from sandwich board, street trading & street trading requirements															476		



APPENDIX 3: COST RECOVERY PRINCIPLES

121 For the purposes of consistency, the same principles applied in the EH fee reviews are used in this Review. The principles have regard to the Treasury and Office of the Auditor-General guidelines, as well as the Auckland Council’s revenue and finance policy.

Table 12: Cost recovery principles

Principle	Description
Paying for benefits received or costs imposed	Costs are recovered from those who benefit from a Council service or from those who impose costs on the Council where it is economically efficient and equitable to do so.
Transparency and accountability	Transparency allows users of services (and stakeholders more generally) to assess value for money. The Council is accountable for providing efficient services including regulatory services.
Financial prudence and sustainability	Funding arrangements must enable costs to be recovered in a way that is financially sustainable.
Strategic alignment	The choice of funding option should have regard to its impact on the broader strategies and priorities set out in the Council’s vision and the Auckland Plan.
Affordability / impact of change	The Council takes into account the impact of funding methods on people’s ability to pay as this can have implications for community well-being. Funding and financial policies should seek to minimise or manage the impact of integration and harmonisation of former council policies.
Compliance and administration	Funding policies and arrangements should have regard to the costs of their administration and the how effective they will be in achieving their objectives.



APPENDIX 4: ENVIRONMENTAL HEALTH AND BYLAW FEES

122 Table 13 lists environmental health and bylaw licence fees recommended in this Review and in the previous reviews undertaken by MartinJenkins. Volume information is based on activity levels as at July 2014. The shaded fees indicate the proposed bylaw fees covered in this Review.

Table 13: Environmental health and bylaw licence fees

Proposed fees (fee levels grouped in \$60 bands)	Fee levels (including GST)	Fee revenue (excluding GST)	Volumes of fees charged
Licence fees			
Funeral directors	240	8,765	42
Offensive trades	420	8,400	23
Camping grounds	300	12,000	46
Sale yards	300	261	1
Providing TLA consent as part of applying to DIA for permission to operate new Class 4 gambling and / or TAB agencies	360	2,504	8
Health and Hygiene: Single basic service	240	99,339	476
Health and Hygiene: Multiple basic services	300	124,174	476
Health and Hygiene: High risk service(s)	360	178,748	571
Recommended fees			
Outdoor dining	360	248,870	795
Mobile shops and temporary stalls	300	102,000	391
Market operators	360	3,757	12
Offering commercial services (guided tours & operators, non-publicly notified)	300	18,261	70
Fire permit	120	38,296	367
Animal management	240	1,878	9
Signage dispensations	actual cost	40,000	50
Local Board involvement in licence applications	actual cost	-	-
Offering commercial services (guided tours & operators, publicly notified)	actual cost	-	-
Fees requested by Council to inform decision making			
Outdoor display of goods - dispensation fee	60	20,870	400
Outdoor display of goods - licence fee	60	208,696	4,000
Distribution of promotional materials	60	2,609	50
Offering commercial services (commercial sex workers)	60	1,565	30
Busking and street performance	60	36,522	700
Other fees			
Return of seized equipment (noise related)	120	2,713	26
Return of seized equipment (other than noise related)	360	-	-
Commercial sex premises (location and signage inspection)	240	5,426	26
Administration fees			
Certificate of inspection (relates to food licensing regime)	240	65,322	313
General inspection fee (can be used in conjunction with licensing fees above)	300	6,522	25
Transfer of occupier	180	47,426	303
Application for dispensation	180	-	-
Duplicate licence	120	104	1



APPENDIX 5: OPTIONS FOR SETTING RENTAL CHARGES

123 Four main options are identified for setting rental charges. More detail about the options used and the method of calculation follow.

Options discounted

Street trading

124 **Option One A (private commercial arrangements).** Data on comparator market transactions is needed across the spectrum of street trading activity, involving different locations and amounts of public space used. While some information is available, the Council does not have access to a sufficient amount of comparator transactions to inform fee setting in a robust and defensible manner.

125 **Option Two B (fee payer's tenancy arrangements)** bases the rental charge on the commercial rates set in the fee payer's tenancy arrangements. It is anticipated this information would be provided by the fee payer to the Council as part of the licence application process. However, the Council does not have access to the information at the present time and is unable to assess what the level of rental charges would be.

Signage

126 Three options are not fit-for-purpose for calculating signage rental charges. This applies to:

- **Option Two B (fee payer's tenancy arrangements)** – insufficient data available.
- **Option Three (customer volumes)** – the nature of the activity means there are no customers.
- **Option Four (turnover)** – it is not practical to attribute turnover to a sign.



Options used

- 127 **Option One A (commercial arrangements).** Although this approach is not feasible for setting street trading charges, the Council has a number of existing commercial contracts in place for displaying signage. The contracts have been in place for a number of years and effectively set the market price for displaying signage on public space. There are benefits to the Council in continuing with these arrangements (eg the area where posters are displayed is maintained by the third-party). The commercial arrangements may mean the Council is unable to exit the contracts in the short term, if it wanted to introduce an alternative charging approach.
- 128 **Option Two A (surrounding commercial land)** is the Council's preferred approach and is used to set charges for outdoor dining, market operators, outdoor displays of goods, busking / street performance, distribution of promotional materials, sandwich boards and portable signs.
- 129 The approach uses commercial land values as a proxy for valuing public space. Commercial land rates are based on land valuation data in the Council's rating database. The approach uses two discount rates and the amount of the rental charge is sensitive to this.
- 130 The rental charge is differentiated by:
- location (three tiers comprising specific suburbs, as defined in Table 14)
 - amount of space used.
- 131 For each type of activity, the per-square metre rate is calculated as follows: (adjoining commercial land value for specific tier) x (discount rental rate) x (adjustment for loss of space) x (amount of space used). Rates are rounded to the nearest five dollars for administrative ease. Table 14 summarises the variables used in the calculation.



Table 14: Option Two A variables

Variables		Notes
Adjoining commercial land values	Tier One \$2,228 per m ² Tier Two \$1,404 per m ² Tier Three \$301 per m ²	<p>Commercial land value (distinct from total value) is used so as to be most comparable with public space (eg value of buildings are excluded).</p> <p>Land values are provided by the Council using its GIS database.⁴⁴ Values are based on a sample of approximately 30% of total commercial properties in the database.</p> <p>Rental charges are differentiated by location according to three suburb groupings:</p> <ul style="list-style-type: none"> • Tier One: Auckland CBD. • Tier Two: Orewa, Browns Bay, Takapuna, Birkenhead, Devonport, Ponsonby, Herne Bay, Freemans Bay, Mission Bay, Grey Lynn, Newmarket, Milford, Ellerslie, Howick, Epsom, Kingsland, Mount Eden, Newton, Parnell, Remuera, St Heliers. • Tier Three: All other suburbs. <p>Suburb groupings were initially based on business zones defined in the Unitary Plan however there were limitations with this approach. Some business zones have a low overall commercial land value, but contain a handful of suburbs with high land values. This produces an undesirable affect whereby street trading in the high land value suburbs is charged at the lower rental rate. Conversely, suburbs with low land values in business zones with high overall land values attract a higher charge.</p> <p>The approach used groups suburbs into tiers according to two factors: volume of street trading activity and the deprivation index.⁴⁵ The latter is used as a proxy to compensate for, on a location basis, the potential impact of rental charge levels on street trading volumes.</p>
Discount rental rate	6%	<p>The market rental rate for bare land is used as a starting point (this is lower than the rate for land with improvements). In practice, the rental rate is an aggregate of several factors (frequency of rent reviews, rate of land appreciation etc) across multiple properties and locations.</p> <p>A discount is applied to the market rental rate to reflect the higher level of restrictions imposed by the Council on licence holders, compared to typical commercial tenancy arrangements (eg restrictions placed by the Council on street trading operating hours).</p> <p>The value used is based on judgement and is informed by conversations with a commercial property company (6%), desk-based research on historical Auckland commercial land rates (8.4% - 9.6%) and the discount rate used to calculate the marine occupation charge for Bay of Plenty District Council (5.5%).</p>
Adjustment for loss of public use / access of land	Markets 20% Outdoor dining 10% Other activity (sandwich boards, portable signs, distribution of promotional services, busking, outdoor display of goods) 0%	<p>A second discount rate is applied to reflect the public's loss of space resulting from the street trading and signage activity.</p> <p>In determining the discount rate, no discount is applied where the public experience a total loss of space and a full discount is applied if there is no impact on the public's use of space (ie no fee charged).</p> <p>The largest discount is applied to markets (20%). While a significant amount of space may be taken up with market stalls, the assumption is there still remains a reasonable level of public thoroughfare.</p>

⁴⁴ As at July 2014, the Auckland Council website defines capital value as an estimate of market value of the property, but notes that values are used to set rates and are not intended for other purposes such as for marketing or for mortgages.

⁴⁵ Deprivation 2013 <http://www.otago.ac.nz/wellington/research/hirp/otago020194.html>.



Variables	Notes
	<p>Outdoor dining has a smaller discount applied (10%). It is comparatively more restrictive as only customers can use the seating, however it is possible to walk between the furniture if need be.</p> <p>The nature of the remaining activity (eg sandwich boards, outdoor displays etc) preclude the public from using the space altogether (although the amount of space used is small). No discount is applied.</p>
Where a fixed rental charge applies	<p>For reasons discussed earlier, some activities have a fixed rental charge. The following assumptions are made about the amount of space occupied:</p> <ul style="list-style-type: none"> • Sandwich boards and portable signs 0.5m² • Outdoor displays of goods 2.0m² • Distribution of promotional services and busking 0.5m².

132 For outdoor dining in the CBD (tier one), the per-square metre rate is: $((\$2,228 \times 6\%) - 10\%) = \120 per m² (excluding GST). The GST inclusive amount is rounded to the nearest five dollars and is \$140 per m². The rental charge for a 20m² outdoor dining area in the CBD is: $\$140 \times 20\text{m}^2 = \$2,800$ per annum.

133 **Option One B (existing Council charges)** is used to set charges for mobile vendors and temporary stalls. Compared to other approaches, it is relatively simple and less subjective. There are drawbacks however. As at July 2014, the Council was about to consult on changes to parking charges and may introduce variable demand-based charging going forward. It may be difficult to set rental charges using this approach in the future. The current approach to car park charging outside of central Auckland also means that a number of assumptions are necessary in order to set location-based rental charges. It is not yet certain whether the proposed changes to car park charging will resolve this issue.

134 The rental charge is calculated as follows: (car parking charge) x (licensed hours of operations permitted by Council) x (amount of space used). Table 15 summarises the variables used in the calculation.

Table 15: Option One B variables

Car park charges	Notes
<p>Tier one</p> <p>\$0.30 per m² per hour</p>	<p>The on-street car park charge is used (distinct from open-air car parks or parking buildings).</p> <p>The CBD (tier one) rate is based on the weighted average of the three different car park rates charged in central Auckland as at July 2014.</p> <p>Figures include GST and are rounded to the nearest five cents for administrative ease.</p>
<p>Tier two</p> <p>63% of unadjusted tier one rate: \$0.20 per m² per hour</p>	<p>There are significant variations in the Council's approach to parking charges across Auckland suburbs (including the provision of free-parking) and, accordingly, it is not feasible to use this approach to calculate charges for tiers two and three. Instead, the same ratio between tiers in Option Two A is used.</p>
<p>Tier three</p> <p>14% of unadjusted tier one rate: \$0.05 per m² per hour</p>	



- 135 For a coffee cart located in the CBD (tier one), 8m² in size, and operating four hours each weekday, the rental charge is: $\$0.30 \times (5 \text{ days} \times 4 \text{ hours} \times 52 \text{ weeks}) \times 8\text{m}^2 = \$2,496$ per annum.
- 136 **Option Three (customer volumes).** This approach is suitable for calculating rental charges for most, but not all, types of activities in regional parks. It is not desirable to use commercial land values or car park charges as a proxy for estimating values associated with regional parks.
- 137 The bulk of street trading activity in regional parks involve tours and guided activities. The nature of this activity means that it is possible to measure the number of customers involved.
- 138 The Council currently operates a charging system called Parks Activity Cost Assessment (PACA). This calculates a per-customer charge based on a variety of operator-specific factors.⁴⁶ Council staff have a preference to continue using this system.⁴⁷ Operators are familiar with it and understand how the charges are set and the Council can administer the system efficiently. It is comparable to the approaches used by Department of Conservation (charging for commercial use of national parks) and Wellington Regional Council (charging for commercial use of regional parks).
- 139 **Option Four (turnover)** has a number of drawbacks and is the least preferred option. Determining the percentage charged on turnover relies on judgment and the level of the charge is highly sensitive to this. Fee payers have limited certainty about the amount payable and can only be guided by forecasted revenue levels. There is no correlation between the amount of the charge and the size of public space used, or length of time that it is used for.
- 140 Notwithstanding this, the use of this option is warranted for a limited amount of street trading activity in regional parks, where the nature of the activity means it is not feasible to charge on a per-head basis (ie using Option Three). This mainly applies to beehives, of which there are approximately five.
- 141 The Council currently sets the rental charge based on 10% of gross profit.⁴⁸ As with Option Three, Council staff have a desire to continue charging at the same level.

⁴⁶ Fee levels are based on number of people, number of sites visited, frequency of visits, type of activity etc.

⁴⁷ MartinJenkins has not been required to assess the level of charges calculated using PACA.

⁴⁸ MartinJenkins has not been required to assess the percentage charged on gross turnover.



APPENDIX 6: FEE COMPARISON

142 The recommended fees and charges are compared with legacy councils and other authorities in NZ.

Trading in public places bylaw

Outdoor dining

143 Table 16 compares actual licence contracts with the Council (business names are removed). User-charges include the licence fee and rental charge components.

Table 16: Outdoor dining fees and charges

Venue, suburb, rental charge based on location (tier 1 – 3)	Size of outdoor dining area (m ²)	Annual operating hours permitted by Council	Legacy fees and charges (including GST)	New fees and charges (including GST)	Change in legacy charges	
Bar and bistro, Ponsonby, tier two rental charge	19	5,824	1,330	1,975	48%	\$645
Bar and bistro, Newmarket, tier two rental charge	113	6,188	7,910	9,965	26%	\$2,055
Sports bar, Auckland central, tier one rental charge	44	6,188	3,045	6,450	112%	\$3,405
Bar and bistro, Waiheke Island, tier three rental charge	40	5,824	2,800	1,160	(59%)	(\$1,640)
Cafe, Ponsonby, tier two rental charge	3	2,808	231	641	177%	\$410
Cafe, Auckland central, tier one rental charge	9	2,080	630	1,620	157%	\$990
Cafe, Manukau, tier three rental charge	20	5,460	630	760	21%	\$130



Figure 2: Bar and bistro, Ponsonby, tier two rental charge

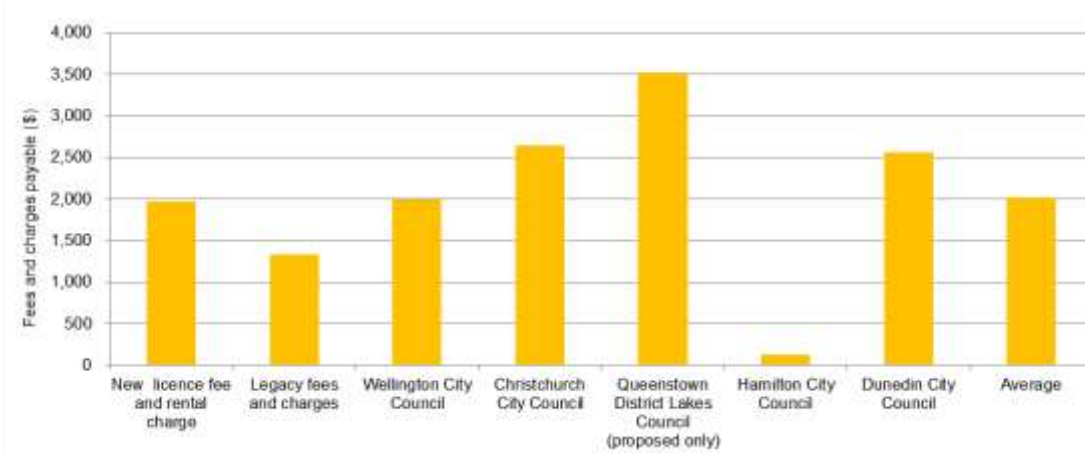


Figure 3: Bar and bistro, Newmarket, tier two rental charge

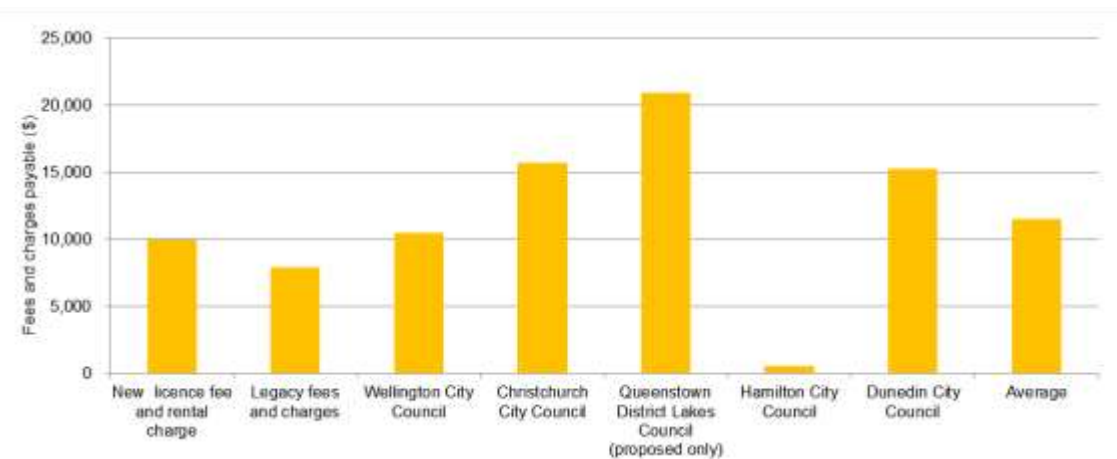


Figure 4: Sports bar, Auckland central, tier one rental charge

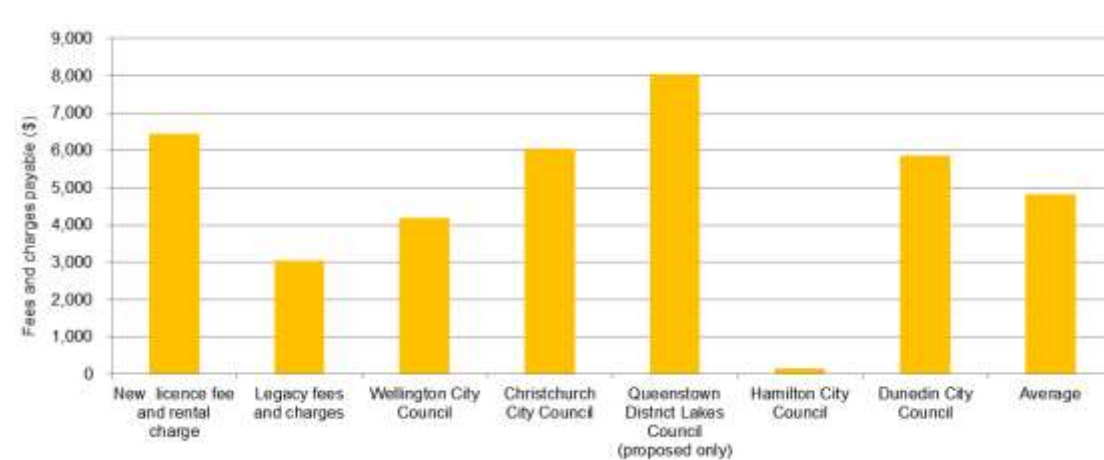


Figure 5: Bar and Bistro, Waiheke Island, tier three rental charge

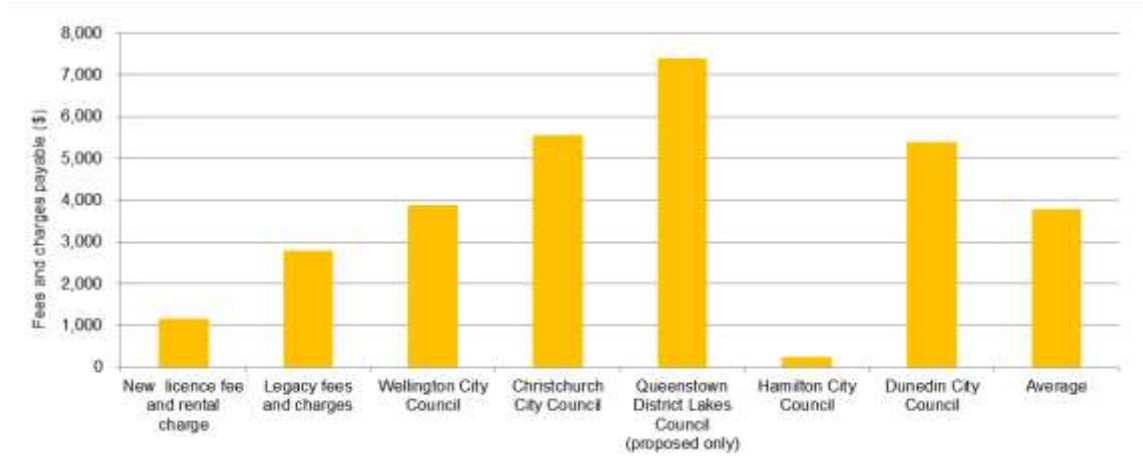


Figure 6: Cafe, Ponsonby, tier two rental charge

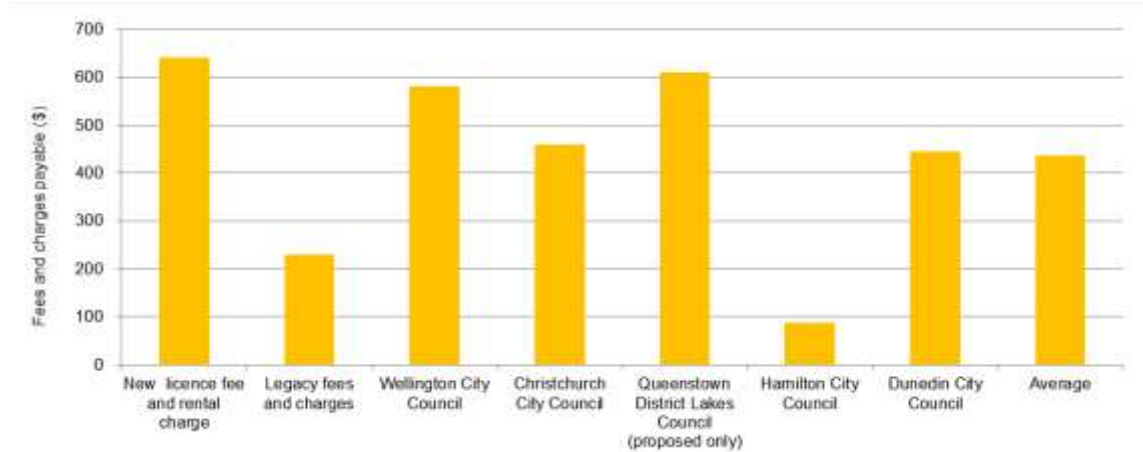


Figure 7: Cafe, Auckland central, tier one rental charge

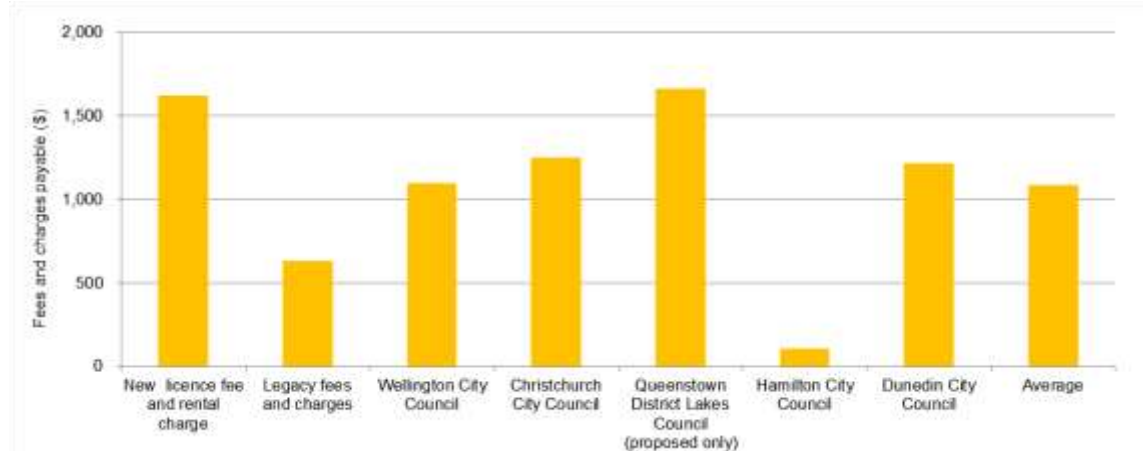
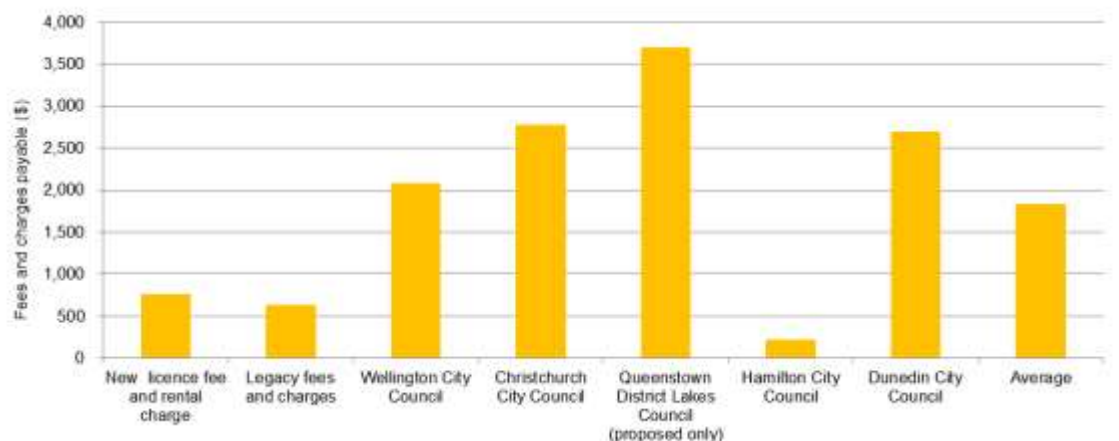


Figure 8: Cafe, Manukau, tier three rental charge



Mobile vendors and temporary stalls

144 Table 17 compares actual licence contracts with Council (business names are removed and vendors' size is based on estimates only). User-charges include licence fee and rental charge components.

Table 17: Mobile vendor and temporary stall fees and charges

Venue, suburb, rental charge based on location (tier 1 – 3)	Estimated size of vendor (m ²)	Annual operating hours permitted by Council	Legacy fees and charges (including GST)	New fees and charges (including GST)	Change in legacy charges	
Coffee cart, Herne Bay, tier two rental charge	8	1,040	1,120	1,964	75%	\$844
Food cart, Waiheke Island, tier three rental charge	10	1,690	4,752	1,145	(76%)	(\$3,607)
Flower vendor, Auckland central, tier one rental charge	8	5,096	4,752	12,515	163%	\$7,763
Food cart, Auckland central, tier one rental charge	20	2,912	15,852	17,772	12%	\$1,920
Newspaper stand, Auckland central, tier one rental charge	2	1,040	122	768	530%	\$646
Food vendor, Manukau, tier three rental charge	8	2,080	191	1,132	493%	\$941



Figure 9: Coffee Cart, Herne Bay, tier two rental charge

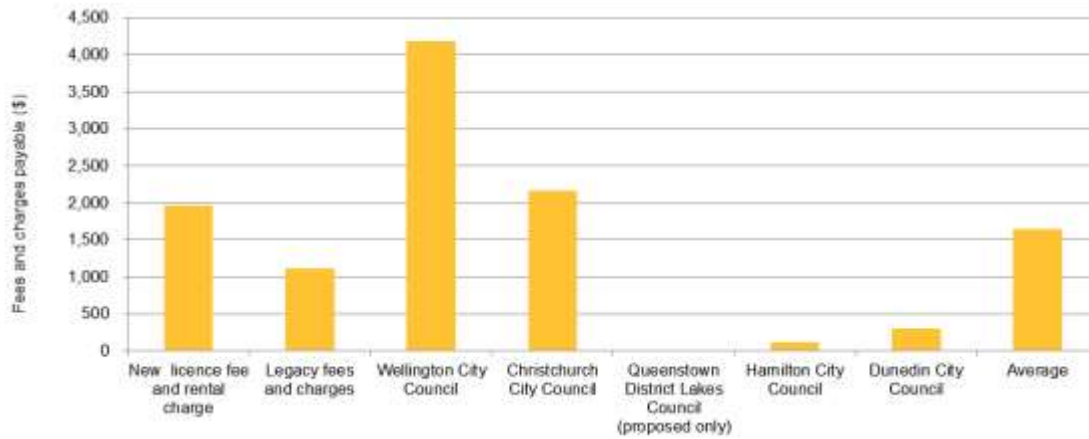


Figure 10: Food vendor, Waiheke Island, tier three rental charge

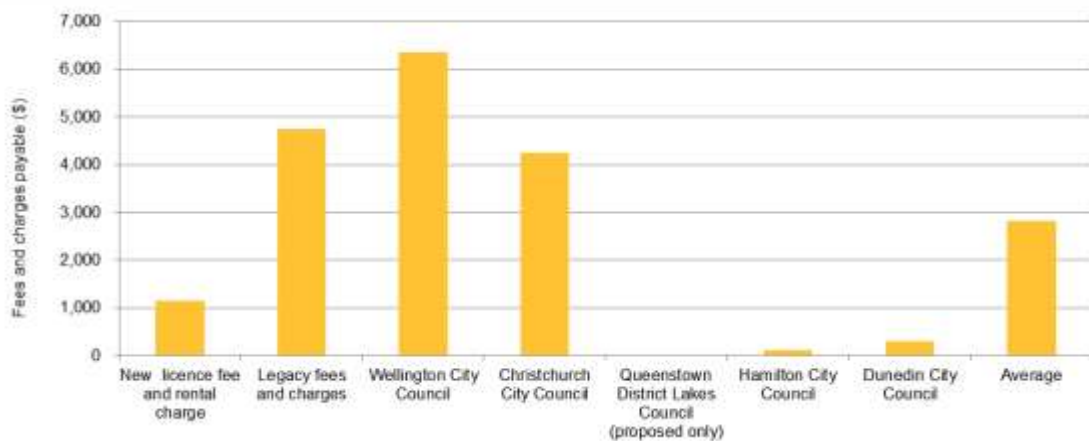


Figure 11: Flower vendor, Auckland central, tier one rental charge

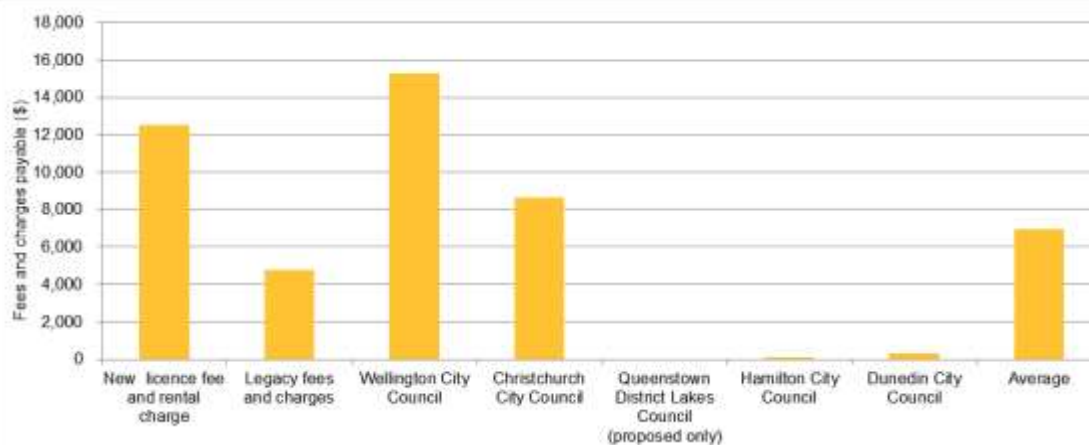


Figure 12: Food vendor, Auckland central, tier one rental charge

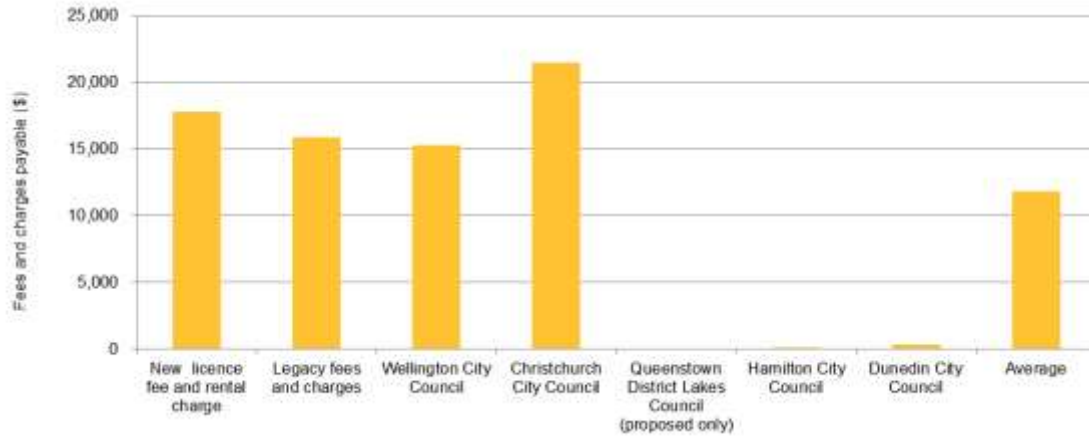


Figure 13: Newspaper stand, Auckland central, tier one rental charge

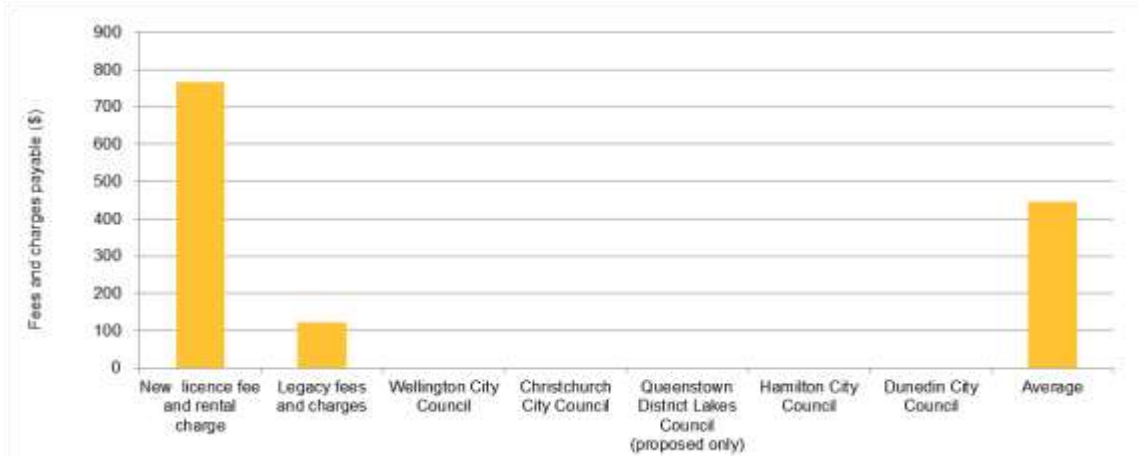
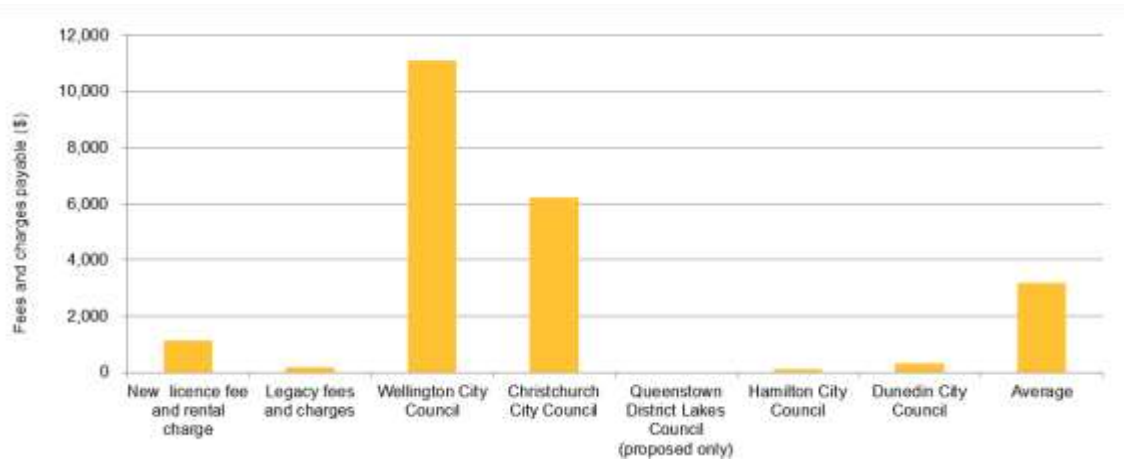


Figure 14: Food vendor, Manukau, tier three rental charge



Market Operator

Figure 15 shows user-charges for a large sized market operator (market size is based on an estimate). User-charges include licence fee and rental charge components.

Figure 15: Market operator rental charge



Fee based on estimated market size of 1,000m²

Offering commercial services (guided tours and operators)

Table 18: Regional parks fees and charges

Non-notified concessions	Licence	Daily per-person charge	Other trading (eg beehives)
Auckland Council current charges	Application fee \$270, renewal licence fee \$270	Varies from \$0.81 to \$4.05, average \$1.79	10% gross turnover
Auckland Council proposed charges	Licence fee (non-publicly notified) \$300 Licence fee (publicly notified) – actual cost incurred	No change, fee levels not reviewed	No change, fee levels not reviewed
Wellington Regional Council	Application fee \$175, renewal licence fee \$50	\$5 guided walking \$5 competitor (events) \$15 per motorbike	As negotiated
Department of Conservation	\$593 - \$725	\$11.50 per person	

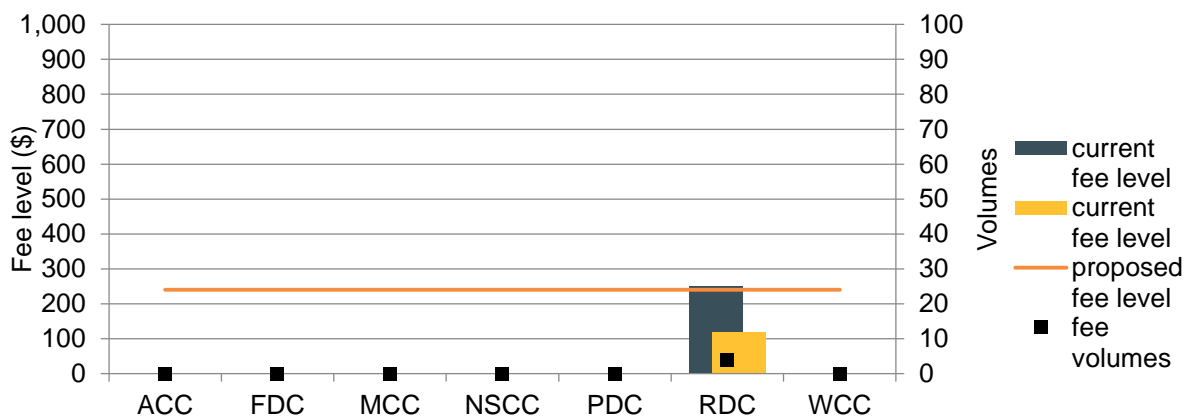


Signage bylaw

145 Dispensation fee is charged on actual cost incurred. Council expects new fee levels to be similar to current charges.

Animal management bylaw

Figure 16: Animal management fee



Fire permit

Figure 17: Fire permit fee

