



Date: Tuesday, 9 February 2016
Time: 9.30am
Meeting Room: Room 1, Level 26
Venue: 135 Albert Street
Auckland

Regulatory and Bylaws Committee

OPEN MINUTE ITEM ATTACHMENTS

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9	Proposed amendment of Auckland Council's Food Safety Bylaw 2013	
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Additional information tabled for Item 9: Proposed amendment of Auckland Council's Food Safety Bylaw 2013

The tables below assess the Proposed Amended Food Safety Bylaw 2013 against the purpose (section 4) and principles (section 16) of the Food Act 2014.

Section 4 – Purpose – Food Act 2014	Summary of assessment
<i>(a) restate and reform the law relating to how persons trade in food</i>	The existing bylaw has been amended to complement the Food Act 2014 through the three year transitional period.
<i>(b) achieve the safety and suitability of food for sale</i>	Grading is an incentive for operators to maintain and improve their food safety practices and procedures, thereby providing higher levels of confidence in the safety of the food they sell. The amended bylaw maintains food safety standards through the transitional period by continuing the grading of food businesses and the existing requirements for food stall registration and food hygiene training.
<i>(c) maintain confidence in New Zealand's food safety regime</i>	Grading, including the mandatory display of the grade certificate, is a widely supported and trusted way of communicating public information on food safety compliance.
<i>(d) provide for risk-based measures that— (i) minimise and manage risks to public health; and (ii) protect and promote public health</i>	Grading prioritises high risk food safety factors as a means to manage and minimise the potential for food-borne illness and promotes food safety standards by incentivising operators to improve food safety. Grading complements the protection and promotion of public health by providing information to consumers upon which they may make informed choices.
<i>(e) provide certainty for food businesses in relation to how the requirements of this Act will affect their activities</i>	New guidelines on grading developed by the council are designed to complement and assist the risk based measures by simplifying the language and concepts. This helps operators transition to high risk based measures of the Food Act. Grading reflects the level of a business' compliance with their food control plan, with particular emphasis on food safety.
<i>(f) require persons who trade in food to take responsibility for the safety and suitability of that food.</i>	By increasing the provision of information to consumers, grading creates powerful incentives for operators to take responsibility for the safety of the food they sell.

Section 16 – Principles to be applied in performing functions or duties, or exercising powers, under the Food Act 2014	Summary of assessment
<i>(a) the need to achieve the safety and suitability of food</i>	Grading is an incentive for operators to improve the safety of the food they sell. The amended bylaw maintains food safety standards through the transitional period by continuing requirements for food stall registration and food hygiene training.
<i>(b) the need to require persons who operate food businesses or otherwise trade in food to take responsibility for the safety and suitability of food</i>	Grading incentivises operators to take responsibility for the safety of the food they sell.

<p><i>(c) the need to promote standards and control mechanisms that are, as far as practicable, risk-based and science based</i></p>	<p>The amended bylaw continues grading for businesses that sell food directly to the public (high risk) and where food safety information is readily available to the council.</p>
<p><i>(d) the need to minimise compliance costs for food businesses and, in particular, for food businesses that operate under a private or industry programme that achieves the purpose of this Act</i></p>	<p>The new grading system does not directly impose any additional costs for businesses.</p> <p>A food business that falls within the lower risk based measure may voluntarily choose to operate under a template food control plan in order to receive a grade, and will be liable only for the cost of that risk-based measure.</p> <p>Businesses that choose to operate under a higher risk-based measure retain the verification frequency of the original risk-based measure, as specified in the Food Regulations 2015, thereby minimising additional compliance cost.</p>
<p><i>(e) the importance of ensuring that regulatory requirements are applied consistently and fairly across sectors and groups in relation to factors such as risk, including, without limitation,—</i></p> <p><i>(i) the risks that are inherent in the type of food produced:</i></p> <p><i>(ii) the risks that may arise from the processing and handling of food:</i></p> <p><i>(iii) the intended use of the food, and whether it is intended to be consumed by vulnerable populations:</i></p> <p><i>(iv) the scale of the operations of food businesses within the sector or group, and the extent of distribution of the food in which they trade</i></p>	<p>The amended bylaw continues grading only for businesses that fall within the scope of the highest risk based measure (i.e. the template food control plan). By definition the lower risk based measures (national programmes level 3 to 1) are bound by less onerous regulatory requirements.</p> <p>A principal purpose of grading is to provide information to consumers so they can make informed choices.</p> <p>In the interests of fairness and to minimise additional compliance costs, the council's bylaw ensures that the added regulatory requirements of grading apply only to the highest risk template measures (i.e. selling food to the public).</p> <p>Grading for businesses using custom food control plans will be addressed by a national grading scheme once regulations have been made.</p> <p>The benefits to public health and safety of council's grading scheme outweigh any disadvantage arising from the fact that it is only mandatory for the highest risk food service and retail sectors to display a grade certificate.</p>
<p><i>(f) the importance of providing services in a co-ordinated and coherent manner as far as practicable</i></p>	<p>The new grading system progressively replaces the old grading system, as and when, businesses move on to the new risk-based measures in the Act.</p> <p>The system reflects the level of a business' compliance with their food control plan and does not directly impose any additional costs</p>
<p><i>(2) If there is a conflict in any case between the need to achieve the safety of food and any other principle in subsection (1), greater weight must be given to the need to achieve the safety of food.</i></p>	<p>Risk to public health and food safety standards have been the key objective of amendments to the existing bylaw.</p>