



I hereby give notice that an ordinary meeting of the Governing Body will be held on:

**Date:** Thursday, 31 July 2014  
**Time:** 9.30am  
**Meeting Room:** Council Chamber  
**Venue:** Civic Building  
Level 2  
6 Henderson Valley Road  
Henderson

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## **Governing Body OPEN AGENDA**

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### **MEMBERSHIP**

<b>Mayor</b>	Len Brown, JP	
<b>Deputy Mayor</b>	Cr Penny Hulse	
<b>Councillors</b>	Cr Anae Arthur Anae	Cr Dick Quax
	Cr Cameron Brewer	Cr Sharon Stewart, QSM
	Cr Dr Cathy Casey	Cr Sir John Walker, KNZM, CBE
	Cr Bill Cashmore	Cr Wayne Walker
	Cr Ross Clow	Cr John Watson
	Cr Linda Cooper, JP	Cr Penny Webster
	Cr Chris Darby	Cr George Wood, CNZM
	Cr Alf Filipaina	
	Cr Hon Christine Fletcher, QSO	
	Cr Denise Krum	
	Cr Mike Lee	
	Cr Calum Penrose	

(Quorum 11 members)

**Elaine Stephenson**  
**Democracy Advisor**

**25 July 2014**

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## TERMS OF REFERENCE

Those powers which cannot legally be delegated:

- (a) the power to make a rate; or
- (b) the power to make a bylaw; or
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long term council community plan; or
- (d) the power to adopt a long term plan, annual plan, or annual report; or
- (e) the power to appoint a Chief Executive; or
- (f) the power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long term plan or developed for the purpose of the local governance statement; or
- (g) the power to adopt a remuneration and employment policy.

Additional responsibilities retained by the Governing Body:

- (a) Approval of a draft long term plan or draft annual plan prior to community consultation.
- (b) Approval of a draft bylaw prior to community consultation.
- (c) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of electoral officer.
- (d) Adoption of, and amendment to, the Committee Terms of Reference, Standing Orders and Code of Conduct.
- (e) Relationships with the Independent Maori Statutory Board, including the funding agreement and appointments to committees.
- (f) Approval of the Unitary Plan.
- (g) Overview of the implementation of the Auckland Plan through setting direction on key strategic projects (e.g. the City Rail Link and the alternative funding mechanisms for transport) and receiving regular reporting on the overall achievement of Auckland Plan priorities and performance measures.

ITEM	TABLE OF CONTENTS	PAGE
1	Affirmation	5
2	Apologies	5
3	Declaration of Interest	5
4	Confirmation of Minutes	5
5	Acknowledgements and Achievements	5
6	Petitions	5
	6.1 Steph Borrelle - Petition calling on Auckland Council to make Auckland free of single-use plastic bags	5
7	Public Input	5
8	Local Board Input	6
9	Extraordinary Business	6
10	Notices of Motion	6
	<i>Due to their size, attachments to Items 11 – 15 are published under separate cover, and will be available on the Auckland Council website as an attachments document. Hard copies available on request.</i>	
11	Report of the Hearings Panel on the proposed Navigation Safety Bylaw 2014	7
12	Report of the hearing panel on the proposed Cemeteries and Crematoria Bylaw 2014	25
13	Proposed Animal Management Bylaw and Statement of Proposal - Resolutions from the Regulatory and Bylaws Committee	39
14	Health and Hygiene Bylaw: Statement of Proposal - Resolutions from Regulatory and Bylaws Committee	41
15	Review of Alcohol Control Bylaws - Resolutions from the Regulatory and Bylaws Committee	43
16	Remuneration Policy	45
17	Consideration of Extraordinary Items	
<b>PUBLIC EXCLUDED</b>		
18	Procedural Motion to Exclude the Public	53
C1	Tāmaki Redevelopment Company Business Case	53
C2	Te Tiriti / Treaty Settlement matters	53
C3	Appointment of Second External Audit and Risk Committee Member	54



**1 Affirmation**

His Worship the Mayor will read the affirmation.

**2 Apologies**

Apologies from Cr AJ Anae and Deputy Mayor PA Hulse have been received.

**3 Declaration of Interest**

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

**4 Confirmation of Minutes**

That the Governing Body:

- a) confirm the ordinary minutes of its meeting, held on Thursday, 26 June 2014, as a true and correct record.

**5 Acknowledgements and Achievements**

At the close of the agenda no requests for acknowledgements had been received.

**6 Petitions**

**6.1 Steph Borrelle - Petition calling on Auckland Council to make Auckland free of single-use plastic bags**

**Purpose**

1. Steph Borrelle will be in attendance to present a petition calling on Auckland Council to make Auckland free of single-use plastic bags.

**Recommendation/s**

That the Governing Body:

- a) receive the petition from Steph Borrelle calling on Auckland Council to make Auckland free of single-use plastic bags.

**7 Public Input**

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30)** minutes is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

## 8 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

## 9 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
  - (i) The reason why the item is not on the agenda; and
  - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
  - (i) That item is a minor matter relating to the general business of the local authority; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

## 10 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

## Report of the Hearings Panel on the proposed Navigation Safety Bylaw 2014

File No.: CP2014/15587

### Purpose

1. To obtain the approval of the governing body of Auckland Council for the proposed Navigation Safety Bylaw 2014 and controls, and the revocation of the legacy Auckland Regional Council Navigation Safety Bylaw 2008, as recommended by the hearings panel.

### Executive summary

2. Following public consultation and consideration of submissions relating to the proposed Navigation Safety Bylaw, the hearings panel recommends the making of a new Navigation Safety Bylaw for Auckland that incorporates a number of amendments proposed through the special consultative procedure. The panel recommends that the legacy Auckland Regional Council Navigation Safety Bylaw be revoked.
3. On 19 December 2013, the governing body approved the proposed Navigation Safety Bylaw for public consultation. A total of 396 submissions were received including 25 submitters who made verbal submissions over two days of hearings held on 27 and 30 May 2014. The hearings panel held its deliberations in public on 6 June 2014.
4. The matters raised in the submissions considered by the hearings panel have been classified into fourteen topics. For each of these topics this report briefly outlines the matters raised by the submitters and provides the hearings panel's views and recommendations.
5. As a result of the submissions the hearings panel has recommended changes to the wording of some of the clauses of the proposed bylaw. Of particular note, is the amendment to the proposed clause 9 which regulates the wearing of personal flotation devices (lifejackets) on small recreational vessels. The panel recommends that the wearing of personal flotation devices on small recreational vessels be made mandatory, subject to the discretion of the person in charge of the vessel.
6. The amended bylaw and controls made under the bylaw that are proposed for formal adoption by the governing body are attached to this report as Attachment A and B. Attachment C sets out the proposed changes as recommended by the hearings panel. The bylaw and controls are proposed to come into force from 25 October 2014, with the legacy bylaw to also be revoked from that date. This enables the staff to ensure implementation occurs in time for the summer.

### Recommendation/s

That the Governing Body:

- a) receive and adopt the recommendations of the Hearings Panel on the proposed Navigation Safety Bylaw 2014 and the proposed controls made under the bylaw contained in this report.
- b) confirm that pursuant to section 155 of the Local Government Act 2002, the proposed Navigation Safety Bylaw 2014 and the proposed controls are the most appropriate way of addressing problems relating to navigation safety in Auckland, and that the proposed bylaw is the most appropriate form of bylaw and is not inconsistent with the New Zealand Bill of Rights Act 1990.

- c) make the proposed Navigation Safety Bylaw 2014 (Attachment A) pursuant to section 145 of the Local Government Act 2002 and section 33M of the Maritime Transport Act 1994, with effect from 25 October 2014.
- d) make the proposed controls made under the Navigation Safety Bylaw 2014 (Attachment B) with effect from 25 October 2014.
- e) revoke the legacy Auckland Regional Council Navigation Safety Bylaw 2008 in full with effect from 25 October 2014.
- f) direct staff to –
  - (i) develop an integrated implementation plan to ensure adequate education and promotion of the requirements of the Navigation Safety Bylaw 2014;
  - (ii) review the resources available to ensure the implementation of the Navigation Safety Bylaw 2014, including the resources available to the Harbourmaster and for other marine safety initiatives.
- g) request the chairperson of the Regulatory and Bylaws Committee to address a letter to the Minister of Transport to –
  - (i) request the immediate review of the Local Government (Auckland Regional Council Navigation Safety Bylaw 2008) Regulations 2009 and the development of new regulations under the Maritime Transport Act 1994, that specify which breaches of the new Navigation Safety Bylaw 2014 are infringement offences and prescribe infringement fees, as recommended by Auckland Council;
  - (ii) recommend an urgent amendment to the Maritime Transport Act 1994, to make it an offence for “a person to be in charge of a recreational vessel while under the influence of alcohol or a drug, or both, to such an extent as to be incapable of having proper control of the vessel”, similar to the regulation contained in the Land Transport Act 1998;
  - (iii) recommend that provision be made for the adequate resourcing of functions assigned to regional authorities under the Maritime Transport Act 1994;
  - (iv) recommend an amendment to the Maritime Transport Act 1994, to incorporate the principles of Te Tiriti o Waitangi by specifically providing for ceremonial waka as a distinct category of vessel.

## Comments

- 7. The Local Government (Auckland Transitional Provisions) Act 2010 requires the review of the Auckland Regional Council Navigation Safety Bylaw 2008 by 31 October 2015. The review is part of the bylaw review programme that was originally endorsed by the Regulatory and Bylaws Committee in December 2010 (refer CP2010/00962) and February 2011 (refer CP2011/00453).
- 8. On 1 November 2010, Auckland Council inherited a single navigation safety bylaw made by the former Auckland Regional Council. The legacy bylaw was made pursuant to section 684B of the Local Government Act 1974 and is currently in force throughout the legacy Auckland region. The single bylaw is the largest legacy bylaw Auckland Council has inherited from the former councils.



9. In October 2013, the Maritime Transport Act 1994 was amended, transferring the empowering provisions of regional authorities regarding navigation safety, from the Local Government Act 1974 into the Maritime Transport Act 1994. The making of a new navigation bylaw is now made pursuant to the amended Maritime Transport Act 1994. Section 33M of the Maritime Transport Act 1994 enables Auckland Council to make a bylaw to:
- regulate and control the use or management of ships;
  - regulate the placing and maintenance of moorings and maritime facilities;
  - prevent nuisances arising from the use of ships and seaplanes;
  - prevent nuisances arising from the actions of persons and things on or in the water;
  - reserve the use of any waters for specified persons, ships, or seaplanes;
  - in relation to boat races, swimming races, or similar events,—
    - prohibit or regulate the use of ships;
    - regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas;
  - regulate and control the use of anchorages;
  - prescribe ship traffic separation and management schemes;
  - specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft;
  - require the marking and identification of personal water craft.
10. The Maritime Transport Act 1994 enables variation of regulation by regional authorities by way of bylaw, to provide for local conditions. However, variations and requirements in a navigation bylaw must not be inconsistent with the Maritime Transport Act 1994 or Maritime Rules made under the Act. The Local Government Act 2002 also empowers territorial authorities to make bylaws to:
- protect the public from nuisance;
  - protect, promote and maintain public health and safety; and/or
  - minimise the potential for offensive behaviour in public places.
11. By making the proposed bylaw under the Local Government Act 2002 in addition to the Maritime Transport Act 1994, the council is able to address nuisance issues relating to navigable waters and associated facilities and wharves. In making a navigation bylaw the council is required by the Maritime Transport Act 1994 to consult with the Director of Maritime New Zealand.
12. The council reviewed the legacy bylaw and determined that a bylaw is the most appropriate method to deal with navigation safety issues in Auckland. The main changes that were included in the proposed Navigation Safety Bylaw 2014 (“the proposed bylaw”) were:
- the compulsory wearing of flotation devices by persons on board small vessels;
  - increased emphasis of the responsibility of the person in charge of a vessel:
    - mandatory appointment of a person in charge of a vessel;
    - prohibition on any person in charge of a vessel being incapacitated by alcohol or drugs;
  - compulsory carriage of a means of communication on vessels; and
  - enhanced mooring site management.
13. The Regulatory and Bylaws Committee recommended to the governing body that the proposed bylaw be made available for public consultation on 19 December 2013 (RBC/2013/7 and 8). The governing body approved the statement of proposal and proposed bylaw for public consultation to take place early 2014 (GB/2013/159).

14. A hearings panel was appointed to hear submissions, deliberate and make recommendations to the governing body on the proposed bylaw by the Regulatory and Bylaws Committee on 3 December 2013 (RBC/2014/16).

## Overview of public consultation and submissions

15. Public notification included public notices in the New Zealand Herald, in 13 suburban newspapers and in the February 2014 edition of Our Auckland that is distributed to approximately 500, 000 people in the Auckland community.
16. The statement of proposal, summary and a freepost submission form were made available on the council's website and at libraries and service centres across Auckland. The council also made use of Twitter and Facebook to advertise the proposal and invite submissions. Some of the local boards took the opportunity to include the information in e-newsletters that are distributed to their data bases.
17. Notice of the council's proposal with an invitation to make submissions was also given to 4229 persons who had participated during April to June 2013 in the People's Panel, on-line and boat ramp intercept face-to-face surveys on the wearing of lifejackets. The council also directly contacted 184 organisations and clubs that it was able to identify with interests in boating, yachting, fishing, diving or water sports, advising of the proposal and inviting the making of submissions. Notice was also emailed to 4000 persons who subscribe to the council's stakeholder newsletter.
18. To ensure that notice of the council's proposal and the invitation to make submissions reached hard-to-reach communities the council took the following measures:
- Translated advertisements were placed in the following migrant community newspapers - Chinese Herald, Taimi O Tonga, Samoan Observer, NZ Pacific and Gooday NZ (Korean);
  - Radio advertisements translated into the languages of the targeted communities were aired for a week on Mai FM, FLAVA, NUI FM, 531PI and Chinese radio stations. These consisted of 30 second advertisements at varied times throughout the day but focusing on "drive time" in the mornings and late afternoons;
  - Information was also present at the council stall at Pasifika and Polyfest;
  - WaterSafe Auckland also "tweeted" and posted information on its website.
19. A media briefing was also held prior to the opening of public consultation and the submissions period.
20. Matters raised by submitters were categorised into fourteen submission topics, which reflected the thirteen parts of the proposed bylaw and the controls made under the bylaw.
21. At the close of the submissions period on 17 March 2014, 389 submissions had been received. Another seven submissions were received after the submissions period closed, bringing the total to 396 submissions. The submission topics that received the most submissions were:
- Part 3 – Carriage and wearing of personal flotation devices;
  - Part 4 – General navigation safety requirements;
  - Part 6 – Operating requirements, including the compulsory carriage of a communications device.

22. Submitters who requested to be heard were invited to present to the panel at public hearings. Public hearings were held on 27 and 30 May 2014. Four local boards presented their submission to the panel, with a further 25 individuals and organisations also presenting oral submissions to the panel. The panel conducted its deliberations in public on 6 June 2014.

## Deliberations

### Deliberations Topic 1:

#### Part 1 - Preliminary provisions (clauses 1 – 5)

Clause	Description
1	Title
2	Commencement
3	Application
4	Purpose
5	Interpretation

#### Matters raised in submissions

23. A low number of submissions were received for Part 1 of the proposed bylaw. Most of these submissions related to clause 5, which contains the proposed interpretations. Submitters requested some of the words/phrases in the interpretation section required amendments to improve clarity and consistency.
24. Maritime New Zealand (MNZ) commented on clause 3, 4 and 5. MNZ made several suggestions to improve clarity of the bylaw and consistency with the Maritime Transport Act 1994.
25. The Howick Local Board and Waitākere Ranges Local Board supported the purpose of the proposed bylaw, to promote the safe enjoyment of Auckland's water.

#### Hearings Panel deliberations

26. In response to suggested changes made by submitters, the panel recommends a number of amendments be made to improve the interpretation section of the proposed bylaw.

### Deliberations Topic 2:

#### Part 2 - General (clause 6)

Clause	Description
6	Controls and demarcations specified under the bylaw

#### Matters raised in submissions

27. Several submissions were received for specific mapped areas that illustrate areas of navigable waters that require specific controls.

*Note: These submissions are discussed in Deliberations Topic 14: Controls demarcating the use of navigable waters.*

28. The Waitākere Ranges Local Board supported the use of maps instead of the current use of coordinates contained in the legacy bylaw's schedules.

### Hearings Panel deliberations

29. The panel endorses the proposed maps contained in the controls made under the Navigation Safety Bylaw, as an improved way of illustrating where controls are required in particular areas of Auckland's navigable waters, for the purpose of navigation safety.

### Deliberations Topic 3:

#### Part 3 - Carriage and wearing of personal flotation devices (clauses 7 - 11)

Clause	Description
7	Carriage of personal flotation devices
8	Wearing of personal flotation devices on vessels larger than 6 metres
9	Wearing of personal devices on small vessels
10	Exemptions to the compulsory carriage and/or wearing of personal flotation devices on small vessels
11	Wearing of personal flotation devices by persons being towed

#### Matters raised in submissions

30. This topic received the most submissions (approximately 70 per cent) of the total number of submissions received, due to the significant public interest in the proposal to increase regulation for the compulsory wearing of personal flotation devices on small recreational vessels (clause 9).

*Note: Submitters used the term "lifejacket" and "personal flotation device" in their submissions. For clarity the two terms are considered, in this report, to mean the same.*

31. Submitters generally supported the compulsory carriage of lifejackets (clause 7), as an appropriate level of regulation and safety precaution. There were mixed views from those who made submissions on clause 8 - compulsory wearing of lifejackets on vessels larger than 6 metres. Submitters believe educating the boating community is a more appropriate and effective method to reduce drowning incidents. Waikato Regional Council suggested "crossing a bar" should be added to the list of circumstances with heightened risk.
32. Approximately 80 per cent of the submitters opposed the proposal to introduce compulsory wearing of lifejackets at all times on recreational vessels 6 metres and under. Submitters opposed the proposed clause for a number of reasons, such as:
- Current legislation provides an appropriate level of regulation;
  - A national approach made by central government should apply to avoid confusion;
  - The person in charge of the vessel (the "skipper") has legal responsibility for the safety of persons on board and therefore should be able to use discretion;
  - Accidents occur when "boaties" go out with little boating experience, lack of knowledge about the conditions, without carrying lifejackets – already in breach of current law;
  - Impractical/unnecessary/unsafe in many situations, impacting on people's enjoyment of water-based activities.

33. Many of the submitters who opposed the proposal recommended changes and/or a preferred approach for lifejacket regulation. The preferred lifejacket regulation as recommended by submitters, in order of preference, were:
- Compulsory wearing with skipper's discretion;
  - Compulsory wearing to apply to vessels under 4.8 meters or 4 meters in length;
  - Compulsory carriage of lifejackets and compulsory wearing in times of heightened risk (*current regulation*);
  - Compulsory wearing to apply to vessels when underway/moving;
  - Compulsory wearing to apply to children at all times;
  - Compulsory wearing to apply to vulnerable people at all times (i.e. poor swimming ability).
34. The Hibiscus Boating Club and pro forma submissions support lifejackets "as a predominant safety weapon" but were strongly opposed to compulsory wearing at all times. The Club and pro forma submissions recommended the council should wait until the National Pleasure Boat Forum completed the review of the Recreational Boating Safety Strategy 2007. The Auckland Yachting and Boating Association also recommended that the council wait until the national review had been completed.
35. MNZ in commenting on the proposed clause 9, referred to the recommended approach of the National Pleasure Boat Safety Forum, in its letter to the Minister of Transport.
36. Approximately 15 per cent of those who submitted on clause 9 supported the proposal. A number of those who supported the proposal were organisations within the community health and welfare sector such as WaterSafe Auckland and Watersafe New Zealand.
37. The Waitākere Ranges Local Board and Ōtara-Papatoetoe Local Board supported the proposed clause 9 and exemptions. Franklin and Howick Local Boards supported the intent of increasing regulation for the compulsory wearing of lifejackets but believed the issue should be driven by national legislation. Maungakiekie-Tāmaki Local Board opposed the proposed clause 9 except when it applied to children and vulnerable people. Hibiscus and Bays Local Board opposed the proposed clause 9, but stated the board would support a similar proposal if it applied to vessel four metres and under.
38. Waikato Regional Council recommended the deletion of stand up paddle boarders from the exemption because of the inconsistency with Maritime Rule Part 91.

#### **Hearings Panel deliberations**

39. The panel considered the views of the submitters and the consequences of imposing the compulsory wearing of lifejackets at all times on small vessels. The panel members agreed that reducing drowning incidents in Auckland was essential but debated whether the proposal was the appropriate approach to reduce drowning incidents and whether it would be accepted by the boating community.

40. The panel considered alternative regulation to the proposed clause 9 that submitters had suggested. The alternative regulatory options considered by the panel in their deliberations were:
- Compulsory wearing at all times (proposed clause as publicly notified);
  - Compulsory wearing when underway (Waikato Regional Council's adopted approach);
  - Compulsory wearing at all times, with skipper's discretion (recommended approach by the National Pleasure Boat Safety Forum).

*Note: The above wording reflects the principle of the alternative approaches and is not the actual wording of the alternative proposed clause 9.*

41. The hearings panel voted on two of the suggested alternatives; compulsory wearing at all times (as proposed when publicly notified) and compulsory at all times, subject to a skipper's discretion. The majority of the panel supported the approach of compulsory wearing at all times, subject to a skipper's discretion. A minority of the panel members supported the approach of compulsory wearing at all times on small recreational vessels (as publicly notified).
42. The panel recommends that the proposed clause 9, that requires the compulsory wearing of lifejacket on small recreational vessels, be amended to include skipper's discretion.
43. Panel members who supported the alternative regulation to introduce a skipper's discretion, considered it was important for Auckland Council to align itself with the national approach as much as possible. Auckland Council is a member of the National Pleasure Boat Safety Forum, a formal network representing a cross-section of national and regional government agencies, local body groups, organisations and the marine industry, involved in promoting recreational boating safety in New Zealand. In 2013, the National Pleasure Boat Safety Forum recommended to the Minister of Transport that an amendment should be made to national regulation for the wearing of lifejackets on small recreational vessels. The recommended approach was for compulsory wearing at all times, subject to skipper's discretion.
44. A significant proportion of the boating community who submitted on the proposed clause 9 supported skipper's discretion. The panel considered it essential to have "buy-in" from the boating community in order to have voluntary compliance and an effective rule.
45. A skipper of a vessel (i.e. the person in charge) is legally responsible for safety of all those on board, as required under the Maritime Transport Act 1994. Providing for a skipper's discretion for the wearing of a lifejacket on a small vessel also aligns with several other parts and clauses of the proposed bylaw, in particular clause 12.
46. As a result of the recommendation for clause 9, the panel also recommend amendments to clause 8 and clause 10 for consistency. The panel recommended that clause 7 be strengthened by requiring personal flotation devices to be in an "operative condition".

## Deliberations Topic 4:

### Part 4 - General navigation safety requirements (clauses 12 - 17)

Clause	Description
12	Person in charge of the vessel
13	Minimum age of operating powered vessels
14	Speed of vessels
15	Vessels to be seaworthy
16	Collision preventions
17	Notification of collisions or accidents

#### **Matters raised in submissions**

47. Part 4 was the third most popular topic that submissions were received for. The majority of submissions made were in favour of the proposed clause 12(3) which introduces a prohibition of a person being in charge of a vessel when under the influence of alcohol and/or drugs to an extent they are incapable of being able to have proper control.
48. Approximately 80 per cent of those who submitted on the proposed clause 12(3) (alcohol/drug regulation) supported it. Approximately 20 per cent of those who submitted on the proposed clause 12(3) opposed it. Reasons submitters opposed the proposal were:
- wording considered too vague i.e. “under the influence”;
  - unnecessary, difficult and expensive to enforce with no enforceable standards;
  - would restrict people enjoying a drink whilst at anchor;
  - incorrect to compare driving a car on a road and vessel on water.
49. Waikato Regional Council supported the proposal but suggested wording amendments to improve clarity.
50. MNZ in their submission referred to the Recreational Boating Safety Strategy developed by the Forum in 2007, in which it recommended the introduction of legislation that sets a minimum blood alcohol concentration level for the skipper of a recreational craft when underway.
51. The Hibiscus and Bays Local Board, Maungakiekie-Tāmaki Local Board and Waitākere Ranges Local Board supported the proposed clause 12 (3), but questioned how regulation would be monitored and enforced.

#### **Hearings Panel deliberations**

52. The panel considered the Harbourmaster’s ability to enforce the proposed clause 12(3) which prohibits a person in charge of a vessel to be under the influence of alcohol/drugs to the extent he/she is incapable of having proper control. While the panel is aware the Harbourmaster is unable to actively enforce the proposed clause 12(3), by carrying out breath testing, the panel recommends that the proposal be retained to provide an explicit regulation that over consumption of alcohol and drugs is unacceptable on the water, as it is on the road. The Harbourmaster has powers under section 33F of the Maritime Transport Act 1994 to enforce navigation bylaws and to promote navigation safety. The panel recommends that Auckland Council write a letter to the Minister of Transport to require a change to maritime law that prohibits a skipper of any recreational vessel from operating under the influence of alcohol or drugs, to align with regulation of the Land Transport Act.
53. The panel considered the meaning of “person in charge” and recommends the interpretation be amended to simplify the term. One of the panel members also recommended that the Māori word for “skipper” be included in the interpretation.

**Deliberations Topic 5:**

**Part 5 – Activities (clauses 18 - 26)**

Clause	Description
18	Swimming
20	Dive operations
21	Wakes of recreational vessels
22	Use of vessel engine around wharves and ramps
23	Access lanes
24	Reserved areas
25	Special reserved areas
26	Conduct in reserved areas

**Matters raised in submissions**

54. Part 5 of the proposed bylaw received a few submissions. Submissions were received for clause 18, 20, 21, 22, 23, 24 and 25.

**Hearings Panel deliberations**

55. The panel considered the submissions received for this topic and recommend the following amendments to the proposed bylaw:
- Include definition for recreational vessel;
  - Clarify that clause 23 only applies to large vessels;
  - Retain the current wording in clause 24 as suggested.
56. The panel notes that the suggested amendments to clause 22, to apply to commercial vessels, would have a significant detrimental impact on commercial operations on Auckland's water and is not supported. The panel also notes that clause 26, is not intended to require approval from the Harbourmaster for every small event. Approval would be required if the event is expected to impact other users in the particular location where the event is to be held.

**Deliberations Topic 6:**

**Part 6 - Operating requirements (clauses 27 – 39)**

Clause	Description
27	Obstructions
28	Discharges
30	Aids to navigation
31	Sound and light signals
32	Vessels to carry navigational charts or equipment
33	Means of communication
34	Visibility of paddle craft
35	Vessels to be identified
36	Aircraft
37	Prohibited and restricted anchorages
38	Limitation on anchoring
39	Vessels to be adequately anchored, moored or secured



### Matters raised in submissions

57. Part 6 was the second most popular topic submissions were received for. This was due to a large amount of submissions made on the proposed clause 33 – to require compulsory carriage of a means of communication. Submissions were also received for clause 32, 34, 35, 37 and 38.
58. The proposed clause 33 received the second largest number of submissions per clause, after clause 9. The majority of submitters opposed the proposal (approximately 70 per cent). The main reasons were similar to those outlined for opposing compulsory wearing of lifejackets. These were:
- Skipper's responsibility to make judgement call whether communications is required;
  - Impractical for stand-up paddle boarders, surfers, waka ama, kayaks, personal water craft (jet skis);
  - Unnecessary and reasonable;
  - Creates a false sense of security;
  - Some areas have poor cell phone coverage;
  - Term "communication device" is unclear, needs clarification;
59. Maungakiekie-Tāmaki Local Board suggested that the regulation should only apply to small vessels that exceed 1000 metres from shore. The board indicated they would support clause 33 if it applied to vessels over 6 metres. The Hibiscus and Bays Local Board supported the proposal, while the Waitākere Ranges Local Board supported it in part. MNZ in their submission again referred to the current Recreational Boating Safety Strategy 2007, which recommends making it mandatory for all craft to carry an effective means of communication.

### Hearings Panel deliberations

60. The panel considered the views of submitters and sought clarification from staff on several issues raised by submitters. The panel resolved a number of amendments should be made:
- Clause 32 - deletion of "navigational charts";
  - Clause 33 – amend to ensure the rule is practical;
  - Clause 34 – adopt suggestion made by the Waitākere Ranges Local Board to retain legacy bylaw wording;
  - Clause 35 – revise wording to address submitter concerns;
  - Clause 37 – include small vessels.
61. The panel notes that the Harbourmaster already provides exemptions for the naming of classic yachts and supports this approach.

**Deliberations Topic 7:**

**Part 7 – License, permits and administrative matters (clauses 39 – 52)**

Clause	Description
39	Registration of personal water craft
40	Moorings to be licensed
41	Application for a mooring licence
42	Consideration of application for a moorings licence
43	Conditions of licence
44	Transfer of ownership and termination of mooring licenses
45	Maintenance and construction requirements
46	Powers of Harbourmaster with respect to moorings and vessels on moorings
47	Liability of the council
48	Removal of vessels
49	Ongoing use of a mooring
50	Hot work operations
51	Vessels carrying dangerous goods as cargo
52	Fuel oil operations and bunkering

**Matters raised in submissions**

62. Generally only one or two submissions were received for specific clauses. The most submissions received were for the relevant mooring management clauses. Submitters generally supported improved mooring management but some were oppose to specific requirements, such as the six month timeframe to leave moorings vacant.
63. Waikato Regional Council submitted that personal water crafts (jet skis) that are registered under other councils' registration systems should be accepted by Auckland Council. MNZ submitted that the correct title to refer to in the bylaw was the "Code of Safe Working Practices for Merchant Seafarers".

**Hearings Panel deliberations**

64. The panel sought some clarification from staff in relation to mooring management under the proposed bylaw and Unitary Plan. The panel notes that the Unitary Plan will regulate the placement of moorings, whereas the bylaw will regulate administrative matters of owning a mooring.
65. The panel recommend the following amendments:
- clause 39 – accept registered jet skis by other regional councils, as suggested by Waikato Regional Council;
  - clause 50 – adopt wording amendment as suggested by MNZ.



**Matters raised in submissions**

70. Only a few submissions were received for this topic. One submitted highlighted that it was unclear where a light signal needed to be displayed. MNZ recommended a reference to the International Safety Guide for Tankers and Terminals and the ICS Tanker Safety Guide Chemicals should be included. MNZ also clarified that tankers include Noxious Liquid Substances.

**Hearings Panel deliberations**

71. The panel recommends amendments to clause 67 and 68 in response to the submissions received.

**Deliberations Topic 11:**

**Part 11 – Pilot and pilot exempt master operations (clauses 70 – 72)**

Clause	Description
70	Log of transits in pilotage area
71	Passage Plan
72	Bridge team composition

**Matters raised in submissions**

72. Submissions points were received from MNZ on clauses 70 – 72.

**Hearings Panel deliberations**

73. The panel recommends that amendments be made in response to MNZ's submission.

**Deliberations Topic 12:**

**Part 12 – Licensing of commercial vessels for hire or reward (clauses 73 – 75)**

Clause	Description
73	Vessels to be licensed
74	Consideration of application for licence
75	Conditions of licences

**Matters raised in submissions**

74. No matters raised.

**Hearings Panel deliberations**

75. The panel recommends the adoption of the notified provisions.

**Deliberations Topic 13:**

**Part 13 – Enforcement powers, offences, penalties, exceptions, transitional provisions and revocation (clauses 76 – 85)**

Clause	Description
76	Compliance with the bylaw
77	Bylaw breaches
78	Intervention by the Harbourmaster
79	Non-compliance with conditions of a licence
80	Removal of vessel, material, thing, cargo or matter
81	Removal of construction
82	Exceptions
83	Exemptions
84	Savings and transitional provisions
85	Revocation

**Matters raised in submissions**

76. Only a couple of submissions were received for this topic.

**Hearings Panel deliberations**

77. The panel recommends minor amendments to ensure consistency with other parts of the proposed bylaw.

**Deliberations Topic 14:**

**Controls demarcating the use of navigable waters in Auckland Maps 1.0 – 11.0**

**Matters raised in submissions**

78. Submissions were received for nine of the 54 maps included in the controls made under the proposed bylaw.
79. Two submitters opposed the controls for Panmure Basin, as indicated by the maps. One of the submitters stated that the area defined would prevent the use of non-mechanically powered vessels from accessing the Panmure Basin from Tamaki River. The same submitter also opposed maps 2.1 and 2.2, stating areas of water on Motuihe Island should not be reserved as access lanes.
80. One submitter opposed the demarcated area of Hellyers Creek to be reserved for the use of swimmers and non-mechanically powered vessels only. One submitter opposed maps 3.4. The submitter did not believe Ngātaringa Bay and Shoal Bay should be included in the restricted anchorage area. Westhaven Marina submitted that the proposed Prohibited Anchorage Area in map 10.0 should be extended to include the Westhaven Marina, which is becoming an increasingly busy area.
81. The Waitākere Ranges supported the maps as an improved approach to identifying demarcated areas that require controls. The board supported maps 2.18 and 2.19.

### Hearings Panel deliberations

82. The panel recommends the following maps are amended in response to the submissions received:

- Map 1.7 - Panmure Basin;
- Map 3.0 – Prohibited Anchorage Area.

### Other matters raised (not specific to any clause)

83. Two submitters commented on the need for protection of marine mammals through bylaw regulation. The Waitākere Ranges Local Board recommended that controlled speed areas where Maui's dolphins are known to frequent, should be part of the proposed bylaw. The board also recommended that the council should put efforts into raising public awareness of Maui's dolphins and to include a factsheet as part of any material that is used to publicise the new bylaw.
84. A number of submitters highlighted the need for education of the current regulations and/or any new regulation that the council adopts. A number of submitters supported formal boat training and believe this should be required within the bylaw as a minimum safety standard. A few submitters also believe motorised vessels should be licensed.
85. One submitter commented on noise restrictions, outlining that an increase in restrictions is required. One submitter also commented on the need to require sufficient built-in flotation for all vessels under 6 metres.

### Hearings Panel deliberations

86. The panel recommends that staff be directed to develop an integrated implementation plan to ensure the public, in particular the hard-to-reach ethnic communities, are made aware of the new bylaw and to actively educate the community about boating safety.
87. The panel supports the protection of marine mammals such as Maui's dolphins but notes the council does not have the legislative power to make a navigation bylaw for the purpose of protecting marine mammals. The panel supports efforts to collaborate with other council initiatives when developing educational material that deals with water safety and marine conservation.

## Consideration

### Local board views and implications

88. Nine of the 21 local boards made a submission on the proposed bylaw. Four local boards made an oral submission. The views of the local boards are included in the discussion of the various topics.

### Māori impact statement

89. Following the Regulatory and Bylaws Committee's resolution in September 2013, staff worked closely with the Independent Māori Statutory Board and Te Waka Angamua, to develop an engagement plan and briefing papers for Māori. To ensure the proposed bylaw reached mataāwaka, staff contacted 40 organisations representing mataāwaka, offering to engage each marae individually on issues regulated by the bylaw.
90. The council also invited mana whenua representatives to give input to the council's proposal to regulate navigation safety through a bylaw. Following the distribution to 19 iwi of an information sheet on the navigation safety issues, iwi representatives were invited to attend two hui on 21 and 22 October 2013. Iwi who attended the hui provided feedback on issues and options that were being considered as part of the navigation safety bylaw review.

91. Representatives at the two hui were concerned that as tangata whenua, they be consulted on the location of mooring zones and mooring sites, particularly where these are located in rivers and lakes or at culturally significant areas. Representatives were also able to contribute their practical knowledge as owners and operators of boats on Auckland's waters on issues such as the wearing of life jackets and the management of moorings. Iwi representatives also required that the bylaw provisions relating to the temporary reservation of navigable waters to explicitly include events of cultural significance to Māori.
92. The proposed bylaw seeks to generate outcomes that will be consistent with the Māori Plan for Tāmaki Makaurau and the Auckland Plan's strategic direction enabling Māori aspirations through the recognition of Te Tiriti o Waitangi and customary rights.

## Implementation

93. Most of the issues covered in the proposed bylaw were inherited from the legacy bylaw. The key changes in the proposed bylaw are:
  - mandatory appointment of a person in charge of a vessel;
  - prohibition on any person in charge of a vessel being incapacitated by alcohol or drugs;
  - mandatory wearing of lifejackets on small recreational vessels, subject to a skipper's discretion;
  - requirement to be able to communicate with any land based person; and
  - enhanced mooring site management.
94. The Harbourmaster's Office has systems in place to manage bylaw related issues. Some system changes are expected for the Harbourmaster's Office as well staff training on the new requirements. Education material and website information will also need to be updated to align with the new bylaw. Similarly organisations that provide safe boating education will also need to update their training programmes and educational material to reflect the new requirements.
95. The panel recommends that staff be directed to develop an integrated implementation plan to ensure the new bylaw is effectively communicated with Auckland's community. In doing so, staff will collaborate with the boating community and organisations who provide water and boating education/training, to develop a social marketing campaign that encourages voluntary compliance with the new bylaw. Updating signage at water access sites throughout Auckland will be significant in raising awareness of the new regulatory requirements.
96. The Local Government (Auckland Regional Council Navigation Safety Bylaw 2008) Regulations 2009 will remain in effect until the commencement date of the new bylaw. The regulations contain the infringement fines for breaching the legacy bylaw clauses. Once the new bylaw commences the regulations will not be enforceable. Under the Maritime Transport Act 1994 the Minister of Transport is responsible for development and promotion of new regulations for the new bylaw. The hearings panel recommends that the Chair of the Regulatory and Bylaws Committee be requested to address a letter to the Minister of Transport to commence with the review of the current regulations and the making of the new regulations required to enforce the new bylaw.
97. An extended commencement date is considered necessary to allow for an appropriate level of integrated implementation planning across the council. A large proportion of Auckland's recreational boating community and key water safety education organisations will be affected by the bylaw. The Harbourmaster's Office annually prepares for the boating season to begin at Labour weekend (end of October). A commencement date aligned to the boating season allows an appropriate timeframe for the council and community to be prepared for the commencement of the bylaw.

## Attachments

No.	Title	Page
A	Proposed Navigation Safety Bylaw 2014 <i>(Under Separate Cover)</i>	
B	Proposed controls made under the Navigation Safety Bylaw 2014 <i>(Under Separate Cover)</i>	
C	Recommended changes to the proposed Navigation Safety Bylaw and controls <i>(Under Separate Cover)</i>	

## Signatories

Author	Cr Calum Penrose – Chairperson Regulatory & Bylaws Committee, Chairperson Navigation Safety Bylaw 2014 Hearings Panel
Authoriser	Stephen Town - Chief Executive



## Report of the hearing panel on the proposed Cemeteries and Crematoria Bylaw 2014

File No.: CP2014/15579

### Purpose

1. To submit the recommendation of the bylaws hearings panel and obtain the approval of the governing body for the making of the Cemeteries and Crematoria Bylaw 2014 (the proposed bylaw) and the Code of Practice 2014 (the proposed code of practice) and for the revocation of the legacy bylaws and clauses relating to cemeteries and crematoria.

### Executive summary

2. Following public consultation and consideration of submissions relating to the proposed bylaw, the hearing panel recommends the making of the Cemeteries and Crematoria Bylaw 2014 and Code of Practice 2014 for Auckland that incorporates a number of amendments proposed through the special consultative procedure. The panel recommends the revocation of the legacy bylaws relating to cemeteries and crematoria.
3. On 27 March 2014, the governing body approved the proposed bylaw and code of practice for public consultation. A total of 12 submissions were received during the special consultative procedure period, with 19 late submissions received and accepted prior to the hearing. Of these 31 submissions, 14 submitters made verbal submissions during the one day hearing held on 16 June 2014. The hearing panel held its deliberations in public on 16 June 2014 and 3 July 2014.
4. The matters raised in the submissions considered by the hearing panel have been classified into 10 topic areas. For each of these topics this report briefly outlines the approach taken in the proposed bylaw and code of practice, summarises comments made by the submitters, and provides the hearing panel's view and recommendations.
5. As a result of the submissions the hearing panel is recommending changes to the wording of some of the clauses of the proposed bylaw and some of the parts of the proposed code of practice. The amended bylaw and code of practice proposed for formal adoption are attached to this report as Attachment A and B respectively; Attachment C provides a table of these suggested amendments as recommended by the hearing panel. The bylaw and code of practice are proposed to come into force from 1 November 2014, with the legacy cemeteries and crematoria bylaws and clauses to also be revoked from that date.

## Recommendation/s

That the Governing Body:

- a) receive and adopt the recommendations of the hearing panel on the proposed Cemeteries and Crematoria Bylaw 2014 and Code of Practice 2014 contained in the agenda report.
- b) make the proposed Cemeteries and Crematoria Bylaw 2014, contained in Attachment A to the agenda report, pursuant to section 145 (b) of the Local Government Act 2002 and section 16 of the Burial and Cremation Act 1964, with effect from 1 November 2014.
- c) make the proposed Cemeteries and Crematoria Code of Practice 2014, with effect from 1 November 2014.
- d) revoke the following legacy cemeteries and crematoria bylaws in full with effect from 1 November 2014:
  - (i) Rodney District Council General Bylaw: 1998; Chapter 2 Cemeteries
  - (ii) North Shore City Council [Part 10] Cemeteries and Crematorium Bylaw 2000
  - (iii) Auckland City Council Bylaw No. 7 Cemeteries 2008
  - (iv) Waitakere City Council Urupa (Māori Burial Site) Bylaw 2010
  - (v) Manukau City Council Chapter 4 Cemeteries and Crematoria of the Manukau City Consolidated Bylaw 2008
  - (vi) Papakura District Council Cemeteries Bylaw 2008
  - (vii) Franklin District Council Cemeteries Bylaw 2008.
- e) revoke the following bylaws in part with effect from 1 November 2014:
  - (i) Waitakere City Council Public Places Bylaw 2010 Part 4 [12] Cemeteries and Crematoria.
- f) confirm the delegations proposed in section 3 of the section entitled “Additional information to Cemeteries and Crematoria Bylaw” in Attachment A that provide for staff to exercise powers under the bylaw and for the Regulatory and Bylaws Committee to make, amend or revoke the code of practice.
- g) authorise the Manager Policies and Bylaws, in consultation with the chairperson of the Regulatory and Bylaws Committee, to make any minor edits or amendments to the Cemeteries and Crematoria Bylaw 2014 or the Code of Practice 2014 to correct any identified errors or typographical edits or to reflect decisions made by the governing body.
- h) direct the Chief Executive of Auckland Council to undertake a review of levels of service of council-owned or operated cemeteries and crematoria, to ensure Auckland Council has the capacity to meet customer demand, and deliver required customer service and report back to the Parks, Recreation and Sport Committee three months after commencement of the Cemeteries and Crematoria Bylaw.

## Comments

6. Auckland Council (the council) is empowered under the Burial and Cremation Act 1964 (BCA) to make bylaws in relation to cemeteries and crematoria, providing for the interment of the deceased in a controlled and respectful manner. The Local Government Act 2002 (LGA) also empowers territorial authorities to make bylaws to protect, promote and maintain public health and safety, and to minimise the potential for offensive behaviour in public places. The LGA further specifically empowers the council to manage and / or protect cemeteries from damage and / or misuse.
7. Following the amalgamation of the seven former territorial authorities on 1 November 2010, Auckland Council inherited eight legacy bylaws that address council-owned or operated cemeteries and crematoria. The review of these identified common issues and as a result, determined the most appropriate means to address those issues.
8. In proposing the bylaw, the Regulatory and Bylaws Committee recommended the appropriate mechanism(s) available to the council to manage council-owned or operated cemeteries and crematoria.
9. In summary, the options proposed for each management issue were:
  - ✦ Option A: Regulation through an Auckland-wide bylaw and code of practice, or
  - ✦ Option B: Rely on alternative management approaches.
10. In addition to proposing a bylaw to regulate council-owned or operated cemeteries and crematoria, the Regulatory and Bylaws Committee proposed a code of practice to facilitate the bylaw creating a user-friendly framework for the council and the public. The Cemeteries and Crematoria Bylaw 2014 makes the Code of Practice 2014 enforceable under the bylaw.
11. The purpose of the proposed bylaw and code of practice is to provide regulation to protect Aucklanders health and safety, to prevent damage and misuse, and provide for the interment of the deceased in a controlled and respectful manner.
12. At its meeting on 27 March 2014 the governing body adopted the proposal to introduce a new cemeteries and crematoria bylaw and code of practice to replace all the cemeteries and crematoria bylaws and clauses of the legacy councils' bylaws and to notify the proposed bylaw and code of practice for public consultation (GB/2014/29).
13. The hearing panel was appointed to hear submissions, deliberate and make recommendations to the governing body on the proposed cemeteries and crematoria bylaw and code of practice (minute no. RBC/2014/21).

## Overview of Submissions

14. The proposal was publicly notified with a submission period of 4 April 2014 to 5 May 2014. Public notification included public notices in the New Zealand Herald, in several suburban newspapers and on the council's website.
15. A summary and a link to the full statement of proposal, including the proposed bylaw and proposed code of practice, were sent directly to all stakeholders previously consulted in the development of the proposal. Further, all businesses across Auckland, identified as providing one or more of the services related to cemeteries or crematoria, were also directly notified of the proposal and the consultation period.

16. All relevant documents, including the statement of proposal, summaries, frequently asked questions (translated into three additional languages) and freepost submission forms were made available on the council's website and at libraries and service centres across Auckland.
17. A total of 31 submissions were made on the proposal, and of those, 14 submitters made verbal submissions during the one day hearing held on 16 June 2014. The hearing panel held its deliberations in public on 16 June 2014 and 3 July 2014.
18. Of the submissions received during the special consultative procedure, two submissions stated their full support for the entire proposal; many of the others commented that they agree with the importance of a bylaw and code of practice for council-owned or operated cemeteries and crematoria, while suggesting amendments to the proposed bylaw or code of practice.
19. Of the 31 submissions, 19 were received late and summarised in a supplementary report that was provided to the hearing panel and made publicly available prior to the hearing. These submissions were all in support of amending the proposed code of practice with regard to the draft rules for scattering ashes in public, the number permissible witnesses to the charge at a crematorium, those who are authorised to fill a grave, and the retention of enabling religious or ethnic customs.
20. In order to prepare this report, the matters debated by the hearing panel have been classified into ten topic areas.

## Deliberations Topic 1 – Burial

### Proposal as publicly notified

21. As per 'issue 1a' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves creating a region-wide bylaw for burial activities that take place at all council owned or operated cemeteries in the Auckland region, supported by a code of practice.*

*The BCA (s 4) directs local authorities to provide suitable cemeteries for the burial of persons dying within its district, and is authorised to undertake any work necessary for the carrying out this duty. It also allows (s 49) local councils to provide for the burial (or cremation) of poor persons.*

*This option would standardise operational practices and requirements across the region enabling the consistent management of cemeteries, and will remove the duplication of regulation regarding the burial of poor persons.*

### Matters raised in submissions

22. Two submissions received during the special consultative procedure provided comment on proposed burial clauses, including comment on the exclusive right of burial being sold back to the council if the owner no longer wishes to use it (e.g. if the owner moves out of Auckland); support for two body burials per plots; and that proposed burial times were too restrictive.

23. A further seven submissions, received after the special consultative procedure period, included comments that proposed burial times and notification periods were too restrictive; the exclusive right of burial should extend beyond the proposed 60 year time limit; limiting two plots per person was too restrictive if families wished to be buried together; and restricting those who could fill a grave to 'only a person authorised by the council' was preventing people from fulfilling religious or ethnic customs or laws.

### Hearing Panel deliberations

24. The panel debated the length of time that the exclusive right of burial could be held by the purchaser and agreed that the statutory length of time (60 years), as specified by the BCA, is appropriate to retain and recommends that the proposed code of practice be amended to state the plot holder will have first right of refusal if that 60 years should lapse without a burial taking place.
25. The panel debated extending the hours during which burials can take place and recommends staff increase these hours to provide a more flexible service to the public. Notification periods are proposed to be retained to provide operational abilities for the council. The panel agrees with submitters that there needs to be explicit reference within the code of practice that burials may take place outside these times by prior arrangement with the council.
26. The panel recommends that a review of levels of service at council owned or operated cemeteries and crematoria take place to ensure the council has capacity to meet customer demand.
27. The panel agrees with proposed editorial changes regarding the filling of the graves by authorised persons only; the initial proposal did not intend to restrict or prevent who could fill a grave but rather required people to notify the council of their intention to take part in this aspect of the burial. The panel also agrees that relevant prescribed forms must be updated to include a tick-box to indicate if funeral attendees intend to undertake filling the grave so that the council can facilitate this by way of providing sufficient equipment and supervision.
28. The panel disagrees with increasing the number of plots one person may purchase as this will create an inequity of resources and may result in areas of cemeteries being left unused for lengthy periods. If families wish to be buried together, multiple plots can be purchased by multiple members of the same family.

## Deliberations Topic 2 – Cremation

### Proposal as publicly notified

29. As per 'issue 1b' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves creating a region-wide bylaw for cremation activities that take place at all council owned or operated crematoria in the Auckland region, supported by a code of practice.*

*Consistent management of crematoria around the region will be provided for; restrictions on where ashes can be scattered and standard requirements for caskets / coffins and / or application for crematorium use are examples of provisions included within a region-wide bylaw and code of practice.*

### Matters raised in submissions

30. Three submissions were received on this topic; these submissions included support for the ability to inter ashes of related family members in closed cemeteries to utilise space and reduce pressure on open cemeteries. There was both support and opposition for requiring prior approval for scattering ashes in public places, including waterways, as some areas are not appropriate for the scattering of human ashes. Opposition was also received with regard to witnesses to the charge at a crematorium being limited to two persons, which was seen as too limiting for numerous groups to fulfil their religious or ethnic customs or laws.
31. Clarification was sought for what constituted combustible materials; why some materials were prohibited in the cremation process; how many ashes may be buried in existing ash plots; and how consent for scattering ashes in public will be granted. One submitter identified potential risk to the council with regard to afterhours booking procedures for cremations.
32. A further 11 late submissions were received providing comments on the proposed cremation clauses. Comments included opposition to the prior notification times for cremations; the number of witnesses to the charge being limited to two persons; the proposed requirement for prior approval for scattering ashes in public places; and clarification of both combustible materials and non-permitted items.

### Hearing Panel deliberations

33. The panel debated the appropriateness of scattering ashes in public places with regard to different religious and cultural practices. The panel agrees that some places such as public gardens and sports fields are not appropriate for scattering ashes as these areas may face higher pressures of ash scattering. The panel recommends the removal of draft clause 3.31 that proposed to require prior approval for scattering ashes in public places, and recommends that guidance information must be developed and be passed to families when ashes are returned to them. The panel agrees that appropriate signage at public places described above will help to communicate that ashes cannot be scattered in these areas.
34. The panel recommends that the council collaborate with iwi and various religious groups to develop agreed public places for scattering of ashes.
35. The panel agrees that there should not be a limit on the number of witnesses to the charge but rather that this must be managed according to the individual sites and its capacity to accommodate witnesses safely. It is recommended that the code of practice be amended to reflect this.
36. The panel agrees current afterhours booking procedures were appropriate and that further resources could be investigated by staff to provide a relief to such concerns.
37. The panel recommends inclusion of a clarification on combustible material within the code of practice.

## Deliberations Topic 3 – Wāhi Tapu Māori Area

### Proposal as publicly notified

38. As per 'issue 1c' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves providing management provisions for the Waikumete Urupa and any future Wāhi Tapu Māori Areas within a region-wide bylaw for council owned or operated cemeteries and crematoria.*

*This option would enable cemetery managers to provide specific management for Wāhi Tapu Māori Areas, including provisions for exclusive right of burial, number of persons in a grave, cremation, and disposal of ashes. Wāhi Tapu Māori komiti's who represent the mana whenua of that area could be created to further administer and manage the matters regarding to the burial of mana whenua in council owned or operated cemeteries, as is currently undertaken at Waikumete Cemetery.*

### Matters raised in submissions

39. Submissions received for this topic supported the designation and management of Wāhi Tapu Māori Areas within council owned or operated cemeteries.
40. Clarity on the representation, constitutions, functions and process of appointment of komiti's was requested.

### Hearing Panel deliberations

41. There is currently only one Wāhi Tapu Māori Area komiti. At the point when another Wāhi Tapu Māori Area is designated in a council owned or operated cemetery, clarity on the representation and functions of the komiti's will form part of the operational procedures and terms of reference.

## Deliberations Topic 4 – Eco-burial

### Proposal as publicly notified

42. As per 'issue 1e' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves providing for eco-burial activities that take place at all council owned or operated cemeteries in the Auckland region in a region-wide bylaw and code of practice.*

*This option would allow future proofing of cemeteries for people who wish to be buried in a way that incurs a lesser environmental impact. These provisions would include criteria addressing acceptable casket / coffin specifications; body coverings / shrouds used; that no chemicals are allowed to embalm bodies; the maximum depth of burial; and permitted memorials.*

### **Matters raised in submissions**

43. Submissions that commented on this topic supported the provision for eco-burials. Clarification was sought on the definition of eco-burial and why eco-burial plots could not be reserved.
44. There was disagreement with explanatory notes that restricting the embalming of bodies is solely to aid decomposition, not to reduce levels of containments introduced into the soil, as the proposal stated.

### **Hearing Panel deliberations**

45. The panel recommends amendment of the code of practice to include additional information as suggested by submitters, such as clarifying how plots would be allocated.

## **Deliberations Topic 5 – Disinterment**

### **Proposal as publicly notified**

46. As per 'issue 2' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves creating a region-wide bylaw and code of practice for disinterment activities that take place at all council owned or operated crematoria in the Auckland region.*

*This would enable the council to ensure that custom and practice is adhered to and disinterment activities are managed in the same manner across the region using a consistent approach. This would reduce the potential for damage to property or the environment e.g. willful damage to a headstone. Further, it would reduce unnecessary distress to mourners or relatives e.g. unclear or inconsistent rules associated with the management and operation of a cemetery.*

*Consent is required from the Ministry of Health, and if approved, a licence is issued to specify responsibilities of different attending parties, and ensure any disinterment activity is undertaken mindful of public health and safety, in a respectful manner).*

### **Matters raised in submissions**

47. One submission supported the proposal and identified that disinterring ashes did not require a licence from the Ministry of Health, recommending this be explicitly noted.

### **Hearing Panel deliberations**

48. The panel supports an amendment to the disinterment section to include additional information, updates of responsible parties / agencies and to make explicit reference that disinterring ashes does not need a licence from the Ministry of Health, but does require to be coordinated by the council.





54. A further two late submissions also opposed the time restriction on adornments.

#### Hearing Panel deliberations

55. The panel supports editorial amendments to the section, including explicit provision for any monumental mason who complies with the council's health and safety approval requirements being able to undertake work within a council owned or operated cemetery.
56. The panel does not support extending the time that adornments can be left on graves immediately after a burial, but does recommend editorial amendments to clarify that after this 14 day period, adornments will be moved to the beam or head of the grave, and not discarded as interpreted by some submitters.
57. The panel recommends removal of size specifications for memorials but including this information as part of the purchase agreement for a specific plot at the time it is sold. This will enable cemeteries to retain variation of headstones and plaques within and across cemeteries that enable and accommodate different communities to express individual styles of memorials.
58. The panel recommends the removal of the photography explanatory notes as it was agreed it would be difficult for council staff to monitor photography and enforce restrictions during funeral services.

#### Deliberations Topic 8 – Ground maintenance

##### Proposal as publicly notified

59. As per 'issue 4' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves creating a region-wide bylaw and code of practice for physical works, maintenance and vegetation based activities that take place at all council owned or operated crematoria in the Auckland region.*

*This option would ensure that there is clarity of responsibilities and that these public spaces are kept and maintained by those responsible parties.*

##### Matters raised in submissions

60. One submission supported ongoing maintenance and upkeep of open cemeteries with an emphasis on ethnic diversity.

#### Hearing Panel deliberations

61. The panel recommends inclusion of a reference to tikanga when vegetation is to be removed in Wāhi Tapu Māori areas.

## Deliberations Topic 9 – Records

### Proposal as publicly notified

62. As per 'issue 5' of the statement of proposal and consistent with the proposed bylaw and code of practice:

*This option involves creating a region-wide bylaw and code of practice for records activities that take place at all council owned or operated cemeteries and crematoria in the Auckland region. Section 50 of the BCA requires burials to be registered; this option would satisfy the council's requirements under that Act.*

### Matters raised in submissions

63. Two submissions questioned why specific details such as cause of death are included in the proposed list.

### Hearing Panel deliberations

64. The panel agrees this information was appropriate, if required by the council, as there are increasing trends of families dealing directly with the council to facilitate a burial or cremation and not engaging a funeral director as an intermediate party. This information is seen as appropriate for maintaining the health and safety of council staff in such instances.

## Deliberations Topic 10 – Editing Amendments to the Code of Practice

### Matters raised in submissions

65. There were two submissions that provided suggested amendments to the Code of Practice.
66. A further 12 late submissions commented that various clauses be amended or removed, as discussed previously throughout this report.

### Hearing Panel deliberations

67. The panel supports amendments to the code of practice. See Attachment C.

## Consideration

### Local board views and implications

68. Views of local boards were sought on how best to address the perceived issues. All local boards received a discussion document on the issues and options in November 2013 and the views of local boards were presented to the Regulatory and Bylaws Committee in March 2014. No local boards formally submitted on the proposed bylaw and code of practice that had been publicly notified in April 2014. One local board representative spoke at the hearing meeting in support of amending the proposed bylaw and code of practice to ensure religious and ethnic groups are enabled to fulfil relevant customs or laws.

## Māori impact statement

69. Auckland Council's Long-term Plan (LTP) recognises that Auckland's Māori identity is a special point of difference in a global city, focusing on kaitiakitanga (guardianship) and Wāhi Tapu Māori Areas (sacred sites). To achieve an outcome to support this, as well as incorporate elements of significance in Māori burials, operational council-owned or operated cemeteries and crematoria, in those areas set aside as Wāhi Tapu Māori Areas, are managed in conjunction with Wāhi Tapu Māori Areas Komiti's (being a committee comprising of nominees delegated to manage the operation of a specified council-owned or operated Wāhi Tapu Māori Areas in Auckland).
70. The legacy Waitakere City Council (Urupa) Bylaw was reviewed in conjunction with the Waikumete Urupa Komiti (the komiti) during two hui (August, December 2013). Council staff and the komiti collaborated on the proposed code of practice; the komiti supported including those legacy clauses that were general in nature, within the general code of practice, and where no other clauses were similar in intent, for these to be included as Wāhi Tapu Māori Areas specific clauses. Additional communications and correspondence with the komiti and Te Waka Angamua advisors occurred throughout the drafting period. The komiti supported the concept of a code of practice that can be easily modified in the future.

## General

71. The perceived issues, the proposed bylaw and the code of practice have been developed through pre-consultation with political, internal and external stakeholders, including elected members of the governing body (Regulatory and Bylaws Committee Working Party), all local boards, identified council departments and units, the Auckland Regional Public Health Service and a range of industry stakeholders.
72. During the special consultative procedure the council invited the views of the public as well as providing targeted notification of stakeholders and all businesses across the Auckland region identified as providing one or more of the services relating to cemeteries or crematoria.
73. The panel thanks all those who contributed to the consultation process. The contributions from submitters and other stakeholders are greatly appreciated.

## Implementation

74. There are no significant implications for the proposed bylaw as all legacy councils provided for cemeteries and crematoria by way of a bylaw. There will be operational modifications for some cemeteries and crematoria to align themselves with the proposed bylaw and code of practice, with this impact identified as minimal.
75. The cost of implementation of the proposed Cemeteries and Crematoria Bylaw 2014 and the proposed Code of Practice 2014 are covered in existing budgets.

## Attachments

No.	Title	Page
A	Proposed Cemeteries and Crematoria Bylaw 2014 ( <i>Under Separate Cover</i> )	
B	Proposed Cemeteries and Crematoria Code of Practice 2014 ( <i>Under Separate Cover</i> )	
C	Table of proposed amendments ( <i>Under Separate Cover</i> )	

## Signatories

Author	Cr Calum Penrose – Chairperson Regulatory & Bylaws Committee, Chairperson Cemeteries and Crematoria Bylaw 2014 Hearings Panel
Authoriser	Stephen Town - Chief Executive



## Proposed Animal Management Bylaw and Statement of Proposal - Resolutions from the Regulatory and Bylaws Committee

File No.: CP2014/15578

### Purpose

1. To adopt the recommendations of the Regulatory and Bylaws Committee on an animal management bylaw.

### Executive summary

2. At its meeting of 22 July 2014, the Regulatory and Bylaws Committee agreed to recommend to the Governing Body of Auckland Council that a bylaw is the most appropriate way to address identified perceived problems associated with public health and safety, public nuisance and offensive behavior in public places in relation to animals. The committee also agreed to recommend to the Governing Body of Auckland Council that the statement of proposal be adopted, with a proposed bylaw, for public consultation which will be undertaken later in 2014 – Resolution number RBC/2014/26.
3. A copy of the statement of proposal (including the proposed bylaw) is contained in Attachment A. A copy of the Regulatory and Bylaws Committee report is contained in Attachment B.

### Recommendations

That the Governing Body:

- a) agree that pursuant to section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way of addressing certain issues related to animals as identified in Attachment A.
- b) agree that under section 155(2)(a) of the Local Government Act 2002, the proposed draft Animal Management Bylaw (Attachment A) is the most appropriate form of bylaw to address problems related to animal management.
- c) agree that under section 155(2)(b) of the Local Government Act 2002, the proposed draft Animal Management Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.
- d) agree that under section 62 of the Local Government (Auckland Transitional Provisions) Act 2010, the Auckland Council proposes to revoke in full seven legacy bylaws and revoke the relevant provisions of eleven other legacy bylaws on animal management matters (and replace them with a new region-wide bylaw on animal management).
- e) agree that under sections 83 and 86 of the Local Government Act 2002, Attachment A: Statement of Proposal “Review of Animal Management Bylaws, July 2014” be adopted for public consultation.
- f) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the governing body that affect the Auckland Council bylaw.

## Attachments

No.	Title	Page
A	Statement of Proposal (including the proposed bylaw) ( <i>Under Separate Cover</i> )	
B	Regulatory and Bylaws Committee Report ( <i>Under Separate Cover</i> )	

## Signatories

Author	Rita Bento-Allpress - Democracy Advisor
Authoriser	Stephen Town - Chief Executive



## Health and Hygiene Bylaw: Statement of Proposal - Resolutions from Regulatory and Bylaws Committee

File No.: CP2014/15675

### Purpose

1. To adopt the recommendations of the Regulatory and Bylaws Committee on an exemption for pharmacists undertaking commercial ear-piercing services from the Health and Hygiene Bylaw 2013.

### Executive summary

2. At its meeting of 22 July 2014, the Regulatory and Bylaws Committee considered advice that regulation in the form of a bylaw is not the most appropriate way to address health and hygiene risks from commercial ear-piercing services provided by pharmacists. The committee agreed to recommend to the Governing Body of Auckland Council that the statement of proposal be adopted, with a proposed amended bylaw, for public consultation – Resolution number RBC/2014/28.
3. A copy of the Statement of Proposal is contained in Attachment A. A copy of the report to the Regulatory and Bylaws Committee is contained in Attachment B.

### Recommendation/s

That the Governing Body:

- a) agree that pursuant to section 155(1) of the Local Government Act 2002, regulation in the form of a bylaw is not the most appropriate way to address health and hygiene risks from commercial ear-piercing services provided by pharmacists.
- b) agree that existing industry-based regulation of pharmacists and their premises effectively manages the health and hygiene risks from commercial ear-piercing services provided by pharmacists.
- c) agree that it is appropriate to exempt commercial ear-piercing services provided by pharmacists from compliance with the Auckland Council Health and Hygiene Bylaw 2013 as specified in Attachment A.
- d) agree that under sections 83 and 86 of the Local Government Act 2002, Attachment A Statement of Proposal Amendment to Health and Hygiene Bylaw 2013, be adopted for public consultation.
- e) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the governing body that affect the Auckland Council bylaw.

## Attachments

No.	Title	Page
A	Statement of Proposal - Amendment of the Health and Hygiene Bylaw 2013 ( <i>Under Separate Cover</i> )	
B	Regulatory and Bylaws Committee Report - Amendment of the Health ( <i>Under Separate Cover</i> )	

## Signatories

Author	Rita Bento-Allpress - Democracy Advisor
Authoriser	Stephen Town - Chief Executive

## Review of Alcohol Control Bylaws - Resolutions from the Regulatory and Bylaws Committee

File No.: CP2014/15710

### Purpose

1. To adopt the recommendations of the Regulatory and Bylaws Committee on a bylaw to manage the possession and consumption of alcohol in public places.

### Executive summary

2. At its meeting of 22 July 2014, the Regulatory and Bylaws Committee agreed to recommend to the Governing Body of Auckland Council that a bylaw is the most appropriate way to manage the possession and consumption of alcohol in public places. The committee also agreed to recommend to the Governing Body of Auckland Council that the statement of proposal and proposed alcohol control bylaw contained in Attachment A be adopted for public consultation – Resolution number RBC/2014/27.
3. A copy of the statement of proposal (including the proposed bylaw and delegations) is contained in Attachment A. A copy of the original report to the Regulatory and Bylaws Committee is contained in Attachment B.

### Recommendation/s

That the Governing Body:

- a) agree that pursuant to section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way of addressing the issues relating to the possession and consumption of alcohol in public places.
- b) agree that pursuant to section 155(2)(a) of the Local Government Act 2002, the proposed alcohol control bylaw is the most appropriate form of bylaw to address the issues relating to the possession and consumption of alcohol in public places.
- c) agree that pursuant to section 155(2)(b) and section 155(3) of the Local Government Act 2002, the proposed alcohol control bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.
- d) agree that pursuant to section 62 of the Local Government (Auckland Transitional Provisions) Act 2010, the Auckland Council proposes to allow the seven legacy council bylaws that deal with the issues of possession and consumption of alcohol in public places to lapse on 31 October 2015 (and replace them with a new region-wide bylaw).
- e) agree that pursuant to section 31 of the Local Government (Auckland Council) Act 2009, the Auckland Council proposes to delegate regulatory decisions on local alcohol bans to local boards.
- f) agree that pursuant to sections 83 and 86 of the Local Government Act 2002, Attachment A: *Statement of Proposal - Alcohol Control in Public Places* be adopted for public consultation.
- g) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal and proposed Alcohol Control Bylaw 2014 to correct any identified errors, typographical edits, or to reflect decisions made by the governing body that affect the Statement of Proposal.

## Attachments

No.	Title	Page
A	Statement of Proposal (including proposed bylaw and delegations) - Review of Alcohol Control Bylaws 2014 ( <i>Under Separate Cover</i> )	
B	Regulatory and Bylaws Committee report - Review of Alcohol Control ( <i>Under Separate Cover</i> )	

## Signatories

Author	Rita Bento-Allpress - Democracy Advisor
Authoriser	Stephen Town - Chief Executive

## Remuneration Policy

File No.: CP2014/15976

### Purpose

1. To report back with a remuneration policy in the 2014/2015 financial year, as requested by the Governing Body on 19 December 2013.
2. This report provides the remuneration policy with a description of how it operates in practice.

### Executive summary

3. The remuneration policy and framework is designed to meet the needs of employees for a fair, market driven approach to remuneration that rewards performance, job size and skills.
4. The policy should be externally defensible based on best practice approaches to remuneration, using well proven remuneration systems and independent advice.
5. The policy ensures an equitable objective and fair approach to job sizing of roles within Auckland Council by using the Strategic Pay job evaluation methodology.
6. Independent advice is an integral part of the remuneration policy, which informs decisions regarding our market position and our internal remuneration ranges.
7. Careful consideration of our market positioning is taken to ensure that the Council balances financial responsibility with the ability to attract and retain quality employees.
8. Annual remuneration reviews are based on individual performance. An assessment against the wider labour market, the state of the economy, and the organisation's ability to pay.
9. We believe that the current approach to remuneration helps to drive and reward performance, is externally defensible, meets the needs of our employees, and also provides value for money.

### Recommendation/s

That the Governing Body:

- a) receive the Remuneration Policy report.

### Comments

#### Background

10. The current remuneration policy provides the overarching parameters for how the Council pays its employees.
11. Individual employee remuneration is determined by the terms and conditions of specific individual employment agreements (IEAs) and collective employment agreements (CEAs). We currently have over 50 agreements across Auckland Council and the seven substantive Council Controlled Organisations (CCOs).

12. Regional Facilities Auckland, Auckland Tourism Events and Economic Development, Auckland Council Property Limited, Waterfront Auckland and Auckland Council Investments apply the same remuneration policy as Auckland Council. Auckland Transport and Watercare manage their own remuneration policies.
13. Refer to Attachment A for the current Remuneration Policy.

### **Why have a remuneration policy?**

14. The following points outline why organisations have a remuneration policy.
  - to establish and set a market position to ensure that an organisation can attract and retain quality employees in a fiscally responsible way by using best practice and well proven approaches to managing remuneration
  - to provide clear governance and boundaries for setting and reviewing remuneration levels across the organisation, incorporating independent advice and sound market based data to support changes
  - to provide reassurance to stakeholders that the approach to remuneration management is defensible, based upon independent advice with regard to setting and reviewing the market position and levels of remuneration
  - to ensure a consistent and fair approach to setting and reviewing remuneration for all employees.

### **Risk of not having a remuneration policy**

15. The following points outline the key risks of not having a remuneration policy.
  - poor remuneration decisions based on patronage, expediency or favouritism. Poor decisions may result in pay distortions, inequity and a budget blowout
  - no strategic oversight and control of job sizing, internal and external relativities. Failure to control internal and external relativity across the organisation may result in salary band creep and future cost escalations
  - no guarantees that independent advice will be sought to inform important remuneration decisions. Lack of independent advice can result in dubious justifications for remuneration levels and decisions giving stakeholders (employees, managers, shareholders, public) cause to question the integrity and reputation of the organisation's leadership.

### **Benefits of having a remuneration policy**

16. The following points outline the key benefits for organisations having a remuneration policy.
  - to ensure a consistent and fair approach to establishing job size, remuneration levels and pay for employees across a large and diverse organisation
  - to control expenditure in salaries and wages and ensure costs stay within budget
  - to balance prudent fiscal management, with the ability to attract and retain quality employees
  - to ensure that remuneration decisions are defensible, based on best practice approaches using well proven remuneration systems/methodologies
  - to ensure that decision makers are provided with independent professional advice for remuneration decisions.

## Examples of the remuneration policy in action

17. Application of the remuneration policy principle of market relativity, financial responsibility and the ability to attract and retain quality employees, has meant that pay increases since amalgamation are comparable to both the CPI (Consumer Prices Index) and the LCI (Labour Cost Index) which are both published by Statistics New Zealand.

Year of Remuneration Review	Auckland Council	Consumer Price Index	Labour Cost Index	Comments
2011*	2.50%	4.50%	1.40%	CPI figure includes a 2.3% increase when GST rose from 12.5 to 15%
2012	2.30%	1.60%	1.50%	
2013	1.90%	0.70%	1.60%	KiwiSaver increase from 2% to 3% which cost 0.6% of Budget. Salary increase budget was 1.3%
2014	2.30%	1.50%	1.50%	
<b>Total</b>	<b>9.00%</b>	<b>8.30%</b>	<b>6.00%</b>	

\*Set by the Auckland Transition Agency (ATA)

18. Application of the remuneration policy principle to be financially responsible has resulted in all annual pay increases in the last three years (and as planned for in 2014) meeting the annual salary increase budget (or salary inflator) as set in the respective financial years' Annual Plan.
19. For the 2014 annual remuneration review, the latest remuneration market data continued to show that overall our salary band ranges are still competitive and appropriate overall. However, at the lower end of the pay scale, our salary band ranges have fallen behind the market over the last year. Application of the social equity principle in the remuneration policy resulted in the decision to increase the pay ranges for salary bands A, B, C and D, whilst the pay ranges for salary bands higher than D have been held at present levels. This reflects another principle underpinning Council's remuneration policy of a financially responsible approach to setting remuneration levels.
20. Officers provided the Mayor and Governing Body with independent remuneration advice to assist with their decision regarding remuneration for the Chief Executive for Auckland Council.
21. Officers source independent advice from Strategic Pay and DSD Ltd to determine remuneration for CCO board members.
22. The remuneration for the Chief Executive, for each CCO, is reviewed by the Board, and is in accordance with the remuneration policy. Officers source and provide independent remuneration advice for each respective board.
23. The Remuneration Authority (Local Government Elected Members (2014/15) (Auckland Council and Local Boards) Determination 2014) pursuant to clause 6 of Schedule 7 of the Local Government Act 2002 and the Remuneration Authority Act 1977, determines the remuneration of the Elected Members annually.

## Proportion of employees with remuneration of more than \$100,000 per annum

24. As one of the largest organisations within New Zealand, Auckland Council is subject to close scrutiny by both the public and media on the levels of remuneration paid to employees. However, as a proportion of all staff, the percentage of employees paid more than \$100,000 is considerably lower than other large organisations and is comparable to other councils, (as one would expect when compared to organisations in the private sector)

Organisation (2012 / 2013)	Employees	\$100-200k	\$200-500k	\$500k +	Total	Total %
Auckland Council	7,008	768	42	1	811	11.6
Auckland Council Group	10,616	1,387	109	4	1500	14.1
Fonterra	17,300	3,242	512	79	3833	22.1
Fletcher	8,500	2,007	340	17	2364	27.8
Telecom	6,342	2,016	289	24	2329	36.7
Air NZ	10,453	2,078	575	15	2668	25.5
Other Councils	Employees	\$100-200k	\$200-500k	\$500k +	Total	Total %
Hamilton Council	1,074	61	1	0	62	5.8
Wellington Council	1,562	144	11	0	155	9.9
Christchurch Council	2,803	241	6	1	248	8.8
Lower Hutt Council	454	24	3	0	27	5.9
Bay of Plenty Regional Council	296	38	1	0	39	13.2
Greater Wellington Regional Council	485	80	8	0	88	18.1
Canterbury Regional Council	526	42	1	0	43	8.2
Tauranga City Council	532	58	1	0	59	11.1

## Consideration

### Local board views and implications

25. Local Board views have not been sought for this paper.

### Māori impact statement

26. The impact on Māori has not been assessed for this paper. A consistent and fair approach to setting and reviewing remuneration supports Council's good employer obligations under the Local Government Act 2002, the aims and aspirations of Māori and the employment requirements of Māori.

## Implementation

27. There are no implementation considerations.

## Attachments

No.	Title	Page
A	Auckland Council Remuneration Policy	49

## Signatories

Author	Eddy Van Der Weerd – Head of Shared Services People and Capability
Authorisers	Alan Brookbanks - Human Resources Director Stephen Town - Chief Executive





## Remuneration Policy

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### Purpose

Auckland Council is committed to ensuring that it attracts, retains and motivates our people to support the achievement of the Council's strategic objectives, while providing development and career opportunities for employees.

To achieve this, we will create and support a culture that identifies, encourages and rewards excellence, innovation and quality customer service. We will do this through a performance development and rewards framework that is directly related to role responsibilities, capability and performance, while providing internal equity and fairness, market relativity, manages total cost in a financially responsible way and considers social equity.

### Scope

This policy applies to all employees, at Auckland Council.

### Principles

These remuneration principals for Auckland Council ensure that there are systems and processes in place that have:

1. Internal equity and fairness, market relativity
  - To ensure an equitable and fair approach to job sizing of roles within Auckland Council we use a proven job evaluation methodology.
  - Independent advice is an integral part of our remuneration policy which informs decisions regarding our market position and our internal remuneration ranges.
  - Careful consideration of our market positions is taken to ensure that we balance financial responsibility with the ability to attract and retain quality employees.
  - Annual remuneration reviews are based on individual performance, assessment against the wider labour market, the state of the economy and the organisations ability to pay.
2. Financially responsible

Our purpose is to make Auckland the world's most liveable city and deliver Aucklanders great value for money. Auckland Council will manage remuneration in a financially responsible and measured way that balances the needs of our ratepayers, customers, citizens and visitors to Auckland with our employees' aspirations for fair and competitive remuneration.

This policy must be externally defensible based on best practice approaches to remuneration using well proven systems and independent advice.
3. Social equity

We acknowledge that the contribution of all our employees is valued and that how we apply remuneration policy outcomes will have an impact on their economic wellbeing and that fair and reasonable increases are considered a priority for our employees in roles at the lower end of the pay scale.

We acknowledge that remuneration is only one factor in rewarding and motivating employees. Therefore we offer support, training and career progression opportunities for our employees to take responsibility to gain skills that will lift employee engagement, provide job satisfaction and personal growth as well as increase opportunities for those employees who wish to apply for higher paid roles across the Auckland Council Group.

### Job Evaluation and Salary Banding

Auckland Council uses the Strategic Pay propriety job evaluation system SP10 which provides a methodology for the alignment of roles across Auckland Council taking into account both internal and external relativities. Auckland Council maintains a statistically significant sample of benchmark roles which has been fully evaluated using this system by a trained committee drawn from People & Capability, management and the PSA union. These roles form the core benchmark group from which other roles across the organisation can be evaluated using the Job Wise "slotting approach" to decide on salary band outcomes.

The benchmark group is periodically reviewed to ensure it is a valid and representative sample of the organisation. When necessary, Strategic Pay fully evaluates a role to ensure that the band allocated is the correct one.

### Market Positioning and Remuneration Ranges

Auckland Council's remuneration market position is developed internally based on the independent market remuneration advice which is received (at least annually). This positioning takes into account the following:

1. The size of Auckland Council. Annual turnover of approximately \$3 billion, assets of \$31 billion and over 10,000 employees across the Auckland Council Group.
2. Auckland Council's diverse organisational operations encompassing multiple sectors and commercial operations. Our remuneration ranges need to recognise the complexity, diversity and in some cases commerciality of Auckland Council which is not typical of many public sector organisations.
3. Auckland Council needs to balance financial responsibility with the ability to attract and retain quality employees.
4. Each salary band is assigned a remuneration range of plus or minus 20% around the median to take into account varying skills, experience and performance.
5. Band medians and remuneration ranges are reviewed annually using independent market data.

### Setting Remuneration on Appointment

Auckland Council through the People and Capability function, provides the following for managers: guidelines, approvals, and market data when setting a salary on appointment. Managers weigh up and balance the skills and experience of new employees to determine what point on the salary range continuum (minimum to maximum) the offer should be.

### Out of Cycle Remuneration Changes

Auckland Council provides guidelines for managers for remuneration changes outside the annual review process.

### Roles and Responsibilities

<b>Governing Body</b>	<ul style="list-style-type: none"> <li>▪ Approve the salary inflator figure for the annual remuneration review as part of the Annual Plan process.</li> </ul>
<b>Chief Executive &amp; Executive Leadership Team</b>	<ul style="list-style-type: none"> <li>▪ Authorisation of any increase or offer in remuneration over the range maximum</li> <li>▪ Approval of policy, banding methodology and delegations</li> <li>▪ Approval of the "annual salary inflator" based on financial and economic advice following consultation with appropriate stakeholders.</li> </ul>
<b>Department Managers</b>	<ul style="list-style-type: none"> <li>▪ Final approval of any out of cycle increase</li> </ul>

Remuneration Policy

<b>Managers</b>	<ul style="list-style-type: none"> <li>Recommending any offer or change in remuneration for employees within their span of control – a <u>one up principal</u> will apply along with delegations to hire</li> </ul>
<b>People &amp; Capability Team</b>	<ul style="list-style-type: none"> <li>Provide support and guidance for the Manager</li> </ul>
<b>Manager Remuneration</b>	<ul style="list-style-type: none"> <li>Provide support and guidance in relation to this policy and its application</li> <li>Ensure remuneration systems are competitive, affordable and aligned with best market practice</li> <li>Research and determination of remuneration ranges and allocation to salary bands based on market remuneration information</li> <li>Job evaluation of all roles and associated salary bands</li> </ul>
<b>Policy owner/s:</b> People and Capability Director	<ul style="list-style-type: none"> <li>Develop, consult, seek approval of, and implement guidelines, policy and aligned processes for the remuneration policy</li> <li>Guide/approve system development to support policy/process</li> <li>Administer requirements of guidelines/policy/process relating to remuneration guidelines/policy</li> <li>Monitoring and updating of this policy.</li> </ul>

**Related Legislation**

- Local Government Act 2002 with amendments
- Employment Relations Act 2000
- Equal Pay Act 1972
- Privacy Act 1993

**Version Control**

Owner	Remuneration Manager		
Authorised by:	People and Capability Director		
Version no:	1.0	Last review date:	July 2014



## Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Governing Body:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

### C1 Tāmaki Redevelopment Company Business Case

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).  In particular, Council is currently engaged in commercially sensitive negotiations with Crown concerning a joint enterprise with commercial functions and involving potential asset-based transactions. .	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

### C2 Te Tiriti / Treaty Settlement matters

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(c)(i) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information or information from the same source and it is in the public interest that such information should continue to be supplied.  In particular, the report contains information provided by the Crown to council in confidence on the understanding the information is negotiation sensitive between Hapu / Iwi and the Crown. If confidential information is made available, it will prejudice both those negotiations	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

	and the provision of similar information to council in the future.	
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**C3 Appointment of Second External Audit and Risk Committee Member**

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.  In particular, the report contains personal information relating to the appointment of a committee member.	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.