



I hereby give notice that an ordinary meeting of the Regulatory and Bylaws Committee will be held on:

**Date:** Wednesday, 3 June 2015  
**Time:** 9.30am  
**Meeting Room:** Room 1, Level 26  
**Venue:** 135 Albert Street  
Auckland

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## **Regulatory and Bylaws Committee**

### **OPEN AGENDA**

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#### **MEMBERSHIP**

<b>Chairperson</b>	Cr Calum Penrose
<b>Deputy Chairperson</b>	Cr Denise Krum
<b>Members</b>	Cr Bill Cashmore
	Cr Linda Cooper, JP
	Cr Alf Filipaina
	Cr Sharon Stewart, QSM
	Cr John Watson
	Member Glenn Wilcox
	Member Karen Wilson
	Cr George Wood, CNZM
<b>Ex-officio</b>	Mayor Len Brown, JP
	Deputy Mayor Penny Hulse

(Quorum 5 members)

**Jaimee Maha**  
**Democracy Advisor**

**27 May 2015**

Contact Telephone: (09) 890 8126  
Email: [jaimee.maha@aucklandcouncil.govt.nz](mailto:jaimee.maha@aucklandcouncil.govt.nz)  
Website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)



## TERMS OF REFERENCE

The Regulatory and Bylaws Committee will be responsible for:

- Considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards);
- Regulatory fees and charges in accordance with the funding policy;
- Recommend bylaws to Governing Body for special consultative procedure;
- Appointing hearings panels for bylaw matters;
- Review Local Board and Auckland water organisation proposed bylaws and recommend to Governing Body;
- Set regulatory policy and controls, and maintain an oversight of regulatory performance;
- Engaging with local boards on bylaw development and review; and
- Exercising the Council's powers, duties and discretions under the Sale of Liquor Act 1989 and the Sale and Supply of Alcohol Act 2012

### **Relevant legislation includes but is not limited to:**

Local Government Act 2002;  
Resource Management Act 1991;  
Local Government (Auckland Council) Act 2009;  
Health Act 1956;  
Dog Control Act 1996;  
Waste Minimisation Act 2008;  
Land Transport Act 1994;  
Maritime Transport Act 1994;  
Sale of Liquor Act 1989;  
Sale and Supply of Alcohol Act 2012; and  
All Bylaws.

## **EXCLUSION OF THE PUBLIC – WHO NEEDS TO LEAVE THE MEETING**

### **Members of the public**

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

### **Those who are not members of the public**

#### General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

#### Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

#### Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Only staff who need to be because of their role may remain.

#### Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

#### IMSB

- Members of the IMSB who are appointed members of the meeting remain.
- Other IMSB members and IMSB staff remain if this is necessary in order for them to perform their role.

#### CCOs

- Representatives of a CCO can remain only if required to for discussion of a matter relevant to the CCO.

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## 1 Apologies

At the close of the agenda no apologies had been received.

## 2 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.

## 3 Confirmation of Minutes

That the Regulatory and Bylaws Committee:

- a) confirm the ordinary minutes of its meeting, held on Monday, 4 May 2015, as a true and correct record.

## 4 Petitions

At the close of the agenda no requests to present petitions had been received.

## 5 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.

### 5.1 Public Input - Bob Lack - Air Quality

#### Purpose

1. To provide an opportunity for Bob Lack to speak to the Regulatory and Bylaws Committee, regarding air quality.

#### Executive Summary

2. The chair of the Regulatory and Bylaws Committee has approved the request from Bob Lack to speak in public input, regarding air quality.

#### Recommendation/s

That the Regulatory and Bylaws Committee:

- a) thank Bob Lack for his public input regarding air quality.

## 6 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.

## 7 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.”

## 8 Notices of Motion

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

## Air Quality Update

File No.: CP2015/09920

### Purpose

1. To provide a summary of the findings of the independent audit of Auckland's air quality and the action plan for air quality which will contain both regulatory and non-regulatory actions which the council can undertake to reduce air pollution in Auckland's urban airshed.

### Executive Summary

2. At the Regulatory and Bylaws Committee meeting of 1 April 2015, a report was presented which advised that council had engaged independent assistance to provide council with the most up to date information and advice on options to address PM<sub>10</sub> in Auckland. The report also advised that staff would develop an action plan to move the council towards compliance with the National Air Quality Standard.
3. Community and Social Policy staff will provide a presentation to the Regulatory and Bylaws Committee which will summarise the findings of the independent audit and present a copy of the proposed draft action plan.
4. Staff note that the actions contained within this action plan includes non-regulatory activities that extend beyond the delegations of the Regulatory and Bylaws Committee and recommend that a report be prepared to go to the Regional Strategy and Policy Committee to adopt the Air Quality Action Plan.

### Recommendation/s

That the Regulatory and Bylaws Committee:

- a) note that an Air Quality Bylaw will be developed ahead of September 2016 to retain the operative rules currently contained in the Auckland Regional Plan: Air Land Water regulating solid fuel domestic fires, prohibiting the burning of wet and treated wood and prohibiting using high-sulphur coal as a fuel source for home heating
- b) note that any approval of an Air Quality Action Plan will need to be considered by the Regional Strategy and Policy Committee.

### Background

5. On 30 October 2014, at the request of the chair of the Regulatory and Bylaws Committee, the Governing Body resolved to:
  - a) *agree that the draft Air Quality Bylaw be returned to the Regulatory and Bylaws Committee for further consideration at its February 2015 meeting, before being re-presented to the Governing Body for decision (GB/2014/119).*
6. On 1 April 2015, staff reported back to the Regulatory and Bylaws, who resolved to:
  - a) *recognise the continuance of Auckland's current standards in the Air, Land and Water Plan until the completion of the review.*
  - b) *note council will instigate a programme around improvements to air quality through best practice for home heating with special reference to the non-use of tanned timber, wet timber, and coal as the primary steps to improve Auckland's air quality. (RBC/2015/3)*

7. In April 2015, the council commissioned an independent air quality expert to review the most up to date information and develop advice on options to address air quality in Auckland. This includes:
- an independent audit of the data and modelling that has informed the development of the draft air quality bylaw
  - a clear and compelling narrative describing the problem and that reflects the unique context of the Auckland airshed and the difficulties this poses towards compliance with the national standards for air quality
  - an evaluation of the effectiveness of a range of regulatory and non-regulatory options including, but not limited to:
    - public awareness campaigns on the adverse effects of PM<sub>10</sub>
    - initiatives that promote burning clean, dry wood
    - cost neutral incentives to upgrade open fires to cleaner alternatives
    - the individual regulations proposed within the draft bylaw
    - the appropriateness of the standard for the Auckland problem

### Comment

8. Based on the information provided, staff have developed an action plan to clearly outline what the council is currently doing and will explore doing in the future to improve air quality in Auckland.
9. Community and Social Policy staff will provide a presentation to the Regulatory and Bylaws Committee which will summarise the findings of the independent audit and present a copy of the proposed draft action plan.
10. Staff note that the actions contained within this action plan includes non-regulatory activities that extend beyond the delegations of the Regulatory and Bylaws Committee and that a report any final approval of an Air Quality Action Plan go through the Regional Strategy and Policy Committee.

### Consideration

#### Local Board views and implications

11. The views of the local boards on the measures proposed in the draft bylaw and statement of proposal were considered by the committee in October 2014. As the purpose of the report is to update the committee, the views of local boards were not obtained for this report.

#### Māori impact statement

12. The views of Māori on the measures proposed in the draft bylaw and statement of proposal were considered by the committee in October 2014. As the purpose of the report is to update the committee, the views of Māori were not obtained for this report.

### Attachments

There are no attachments for this report.

### Signatories

Authors	Michael Sinclair - Manager Social Policy and Bylaws
Authorisers	Kataraina Maki – General Manager - Community & Social Policy

## Hearings Panel Appointments for Proposed Review of Alcohol Bans and Proposed Property Maintenance and Nuisance Bylaw

File No.: CP2015/08577

### Purpose

1. To request that the Regulatory and Bylaws Committee appoint two hearing panels to hear submissions on the proposed review of alcohol bans and proposed draft Property Maintenance and Nuisance Bylaw 2015.

### Executive Summary

2. At its meeting of 4 May 2015 the Regulatory and Bylaws Committee resolved:
  - to adopt the proposal Review of Alcohol Bans – Regional Significance May 2015 for public consultation (RBC/2015/11)
  - to recommend to the Governing Body that the proposed draft Property Maintenance and Nuisance Bylaw 2015 be approved for public consultation (RBC\2015\12).
3. The decision required of the committee is to confirm the members of the two hearing panels to hear submissions on the proposed draft Property Maintenance and Nuisance Bylaw 2015 and proposed review of alcohol bans of regional significance.

### Recommendations

That the Regulatory and Bylaws Committee:

- a) appoint three elected members (one as chair) to a panel to receive, hear and deliberate on submissions and other relevant information on the making of the draft Property Maintenance and Nuisance Bylaw 2015 and review the legacy environmental protection bylaws, deliberate and make recommendations to the Governing Body.
- b) appoint three Regulatory and Bylaws Committee members (one as chair) to a panel to receive, hear and deliberate on submissions and other relevant information on the proposed review of alcohol bans of regional significance and recommend changes to the Regulatory and Bylaws Committee.
- c) appoint a member of the Independent Māori Statutory Board to each hearing panel.
- d) delegate to the Chairperson of the Regulatory and Bylaw Committee the ability to make changes to the panel appointed under (a) or (b) where this becomes necessary because of the withdrawal or unavailability of any of those persons.

### Comments

4. At its meeting of 4 May 2015 the Regulatory and Bylaws Committee resolved to adopt the “Proposal Review of Alcohol Bans – Regional Significance May 2015” for the purposes of a public submission process (RBC\2015\11).
5. The proposal is to retain five existing alcohol bans and to lapse the remaining 12 alcohol bans unless sufficient evidence to retain them is provided by residents through a public submission process.

6. At its meeting of 4 May 2015 the Regulatory and Bylaws Committee resolved to recommend to the Governing Body that the Statement of Proposal, and proposed draft Property Maintenance and Nuisance Bylaw 2015, be approved for public consultation (RBC\2015\12).
7. The proposed new Property Maintenance and Nuisance Bylaw seeks to address issues relating to:
  - stored material, debris and refuse that may create a nuisance
  - overgrown sections that may harbour pests or vermin
  - feeding wild birds, fowl, or feral animals in a manner that may create a nuisance
  - derelict or abandoned buildings that may attract or harbour pests or vermin or create a nuisance
  - regulation of industrial water cooling towers
  - provide temporarily for the regulation of light spillage in the legacy Auckland City area until the proposed Auckland Unitary plan has legal effect.
8. The decision required of the committee is to confirm the members of two hearing panels to hear submissions on the proposed draft Property Maintenance and Nuisance Bylaw 2015 and proposed review of alcohol bans.

## Consideration

### Local Board Views and Implications

9. None. The appointment of the hearing panel is a procedural matter.

### Maori Impact Statement

10. Staff recommend a member of the Independent Māori Statutory Board be appointed to each hearing panel.

## Implementation Issues

11. There are no implementation issues associated with this decision.

## Attachments

There are no attachments for this report.

## Signatories

Authors	Helgard Wagener - Team Leader Policies and Bylaws Kylie Hill - Policy Analyst Richard Stuckey - Principal Policy Analyst
Authorisers	Kataraina Maki – General Manager - Community & Social Policy

## Review of the Auckland Council Food Safety Bylaw 2013

File No.: CP2015/09414

### Purpose

1. To advise the Regulatory and Bylaws Committee of staff's intention to undertake a review of the Auckland Council Food Safety Bylaw 2013 following amendments to the Food Act 2014.

### Executive Summary

2. On 6 June 2014 the Food Act ('the Act') was passed into law by Parliament and will come into effect on 1 March 2016. The Act brings significant changes to the regulation of food premises in Auckland and provides limited time for the council to review its bylaw and adapt its practices. Section 446 of the Act requires that a bylaw made by a local authority must not be inconsistent with the Act, or any regulations made pursuant to the Act.
3. Changes to the national regulatory regime for food safety introduced through this Act have an impact on the Auckland Council Food Safety Bylaw 2013 adopted by the Governing Body on 23 May 2013 (GB/2013/48). Preliminary analysis of the changes indicates that the bylaw does not meet the requirement of the Act. As a result, an immediate review of the Food Safety Bylaw is therefore necessary to ensure council's regulation of food safety is consistent with the national legislation by 1 March 2016.
4. Staff are advising the committee that this review was not part of the Bylaws Review Work Programme and has arisen as a result of the changes to the Act.
5. Staff are currently planning milestones and timing of the review and will report back as soon as possible with options for bylaw amendments. It is likely that proposed amendments to the bylaw will need to be considered by the Regulatory and Bylaws Committee in November to achieve the 1 March 2016 implementation date. Formal public consultation will also need to be undertaken.

### Recommendation

That the Regulatory and Bylaws Committee:

- a) note staff will undertake a review of the Auckland Council Food Safety Bylaw 2013 pursuant to Section 446 of the Food Act 2014.

### Signatories

Authors	Emma Pilkington - Policy Analyst Helgard Wagener - Team Leader Policies and Bylaws Rebekah Stuart-Wilson - Principal Policy Analyst
Authorisers	Kataraina Maki – General Manager - Community & Social Policy