

Panel report on Health and Hygiene Bylaw 2013

File No.:

Te take mō te pūrongo / Purpose of the report

1. To adopt changes to the Health and Hygiene Bylaw 2013.

Whakarāpopototanga matua / Executive summary

2. To enable a decision on whether to adopt proposed changes to the Health and Hygiene Bylaw 2013 (Bylaw), an appointed Panel has deliberated and made recommendations on public feedback to the proposed changes (proposal).
3. The proposal sought to better protect public health by improving the Bylaw. The Governing Body adopted the proposal for public consultation on 26 July 2018. At the close of public feedback on 1 October 2018, approximately 67 individual feedback responses were received and group feedback was received at the Health and Hygiene Fono.
4. The Panel recommend the Governing Body adopt the proposal with changes in response to matters raised in public feedback (**Attachment C**), including that:
 - water play parks and splash pads are limited to permanent structures
 - ophthalmologists are currently the only health practitioner able to carry out eyeball tattoo.
5. Taking this approach will make the Bylaw more certain and better protect public health by ensuring more appropriate and clear coverage of services that contact the skin.
6. There is a reputational risk that people who provided feedback may not feel council has listened to their concerns. This can be mitigated by staff communicating the reasons for the decisions to those who gave feedback.
7. If adopted, staff will publicly notify the decision and amended bylaw, implement any operational changes and commence a review of the Health and Hygiene Code of Practice.

Ngā tūtohunga / Recommendations

That the Governing Body:

- a) approve the Panel recommendations on proposed changes to the Health and Hygiene Bylaw 2013 in Attachment A and Attachment B.
- b) adopt the Health and Hygiene Bylaw 2013 in Attachment C under [section 145](#) of the Local Government Act 2002 and [section 64](#) of the Health Act 1956.
- c) approve the distribution of this report and associated minute to local boards and advisory panels for their information.
- d) delegate authority through the Chief Executive to a manager responsible for bylaws to make any amendments to the Health and Hygiene Bylaw 2013 in Attachment C to correct errors or omissions.

Horopaki / Context

8. The Health and Hygiene Bylaw 2013, Te Ture ā-Rohe Whakamaru Hauora 2013 (Bylaw) aims to minimise health risks to people using services that contact the body. Services include beauty and health treatments, tattoo, body piercing and swimming pools.

9. The Regulatory Committee on 12 July 2018 appointed a Panel¹ to deliberate and make recommendations to the Governing Body on public feedback to proposed changes to the Health and Hygiene Bylaw 2013 (proposal) (REG/2018/51). The proposed changes were adopted by the Governing Body on 26 July 2018 (GB/2018/120) for public feedback.
10. The proposal seeks to improve the current Bylaw by:
 - requiring services that pierce, or risk breaking or burning tissue (not just the skin) to be licensed
 - requiring therapeutic massage, water play parks and splash pads to meet minimum standards
 - banning eyeball tattooing unless carried out by a qualified health practitioner
 - requiring licences to be publicly displayed
 - clarifying rules about traditional tattooing like tā moko and traditional Pacific tattoo.
11. The proposal was notified for public feedback from 26 August to 1 October 2018. People were able to provide feedback either online, by post or in person at five Have Your Say events. Approximately 67 individual feedback responses were received and group feedback was received at the Health and Hygiene Fonu.
12. The Panel deliberated on the public feedback to the proposal at a public meeting on 26 October 2018.
13. More information about the proposal, public notification and feedback can be viewed in the [report](#) to the public meeting of the Panel.

Tātaritanga me ngā tohutohu / Analysis and advice

14. The Panel structured its deliberations and made recommendations on the public feedback by topic (**Attachment A**). Table 1 contains a summary of the key panel recommendations.

Table 1: Summary of key panel recommendations

Proposal topic	Panel recommendations
Services that pierce, risk breaking or burning tissue to be licensed	Adopt as publicly notified to better protect public health.
Therapeutic massage to comply with minimum standards	Adopt proposal to better protect public health. Issues raised in feedback can be addressed in future consultation on the Health and Hygiene Code of Practice.
Waterplay parks and splash pads	Amend proposal to clarify that definition is limited to permanent structures and not, for example, portable waterslides.
Requirement to display licence	Adopt proposal to better inform the public that operators are licensed and to ensure consistency with other bylaws.

¹ Councillor Linda Cooper (chair), Councillor Josephine Bartley and Independent Māori Statutory Board Member Glenn Wilcox.

Proposal topic	Panel recommendations
Eyeball tattooing prohibited unless carried out by a health practitioner	Amend proposal to clarify that an ophthalmologist is the only appropriately qualified health practitioner able to perform this procedure.
Tā moko authorisation by marae clarified	Adopt proposal to better reflect current practice.
Traditional tattooing coverage under bylaw clarified	Adopt proposal to recognise traditional tattooing as important cultural practices, while still requiring licensing and compliance with minimum standards to reduce health risks, in the absence of an alternative authorising body.

15. Where Panel recommendations in **Attachment A** result in changes to the proposed Bylaw, the changes recommended by the Panel are shown in a comparison table in **Attachment B**.
16. The Panel recommends the Governing Body adopt the Bylaw in **Attachment C** which incorporates the changes recommended by the Panel by making the necessary statutory determinations. Taking this approach will make the Bylaw more certain and better protect public health by ensuring more appropriate and clear coverage of services that contact the skin.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views

17. The proposal impacts all local boards equally, except for proposed changes to traditional tattooing which has a greater impact on communities within southern local board areas.
18. Local boards were given an opportunity to input into the decision-making process in writing or in person at a local board workshop with the Panel. The Māngere-Ōtāhuhu Local Board emphasised the importance of traditional Pacific tattooing (tatau) for its communities. Papakura Local Board requested greater restrictions for non-traditional tattooing.
19. The Panel recommendation to adopt the proposal for traditional tattooing as publicly notified supports the input from the Māngere-Ōtāhuhu Local Board. The proposal recognises tatau as distinct from commercial services, while still requiring licensing and compliance with minimum standards to reduce health risks for people receiving tatau.
20. The Panel did not recommend changes in response to input on non-traditional tattooing from the Papakura Local Board. For example, the Panel considers that appropriate age restrictions are already contained in the Health and Hygiene Code of Practice and that the Auckland Unitary Plan appropriately regulates the location of tattoo premises.

Tauākī whakaaweawe Māori / Māori impact statement

21. Tā moko is a taonga protected under the Treaty of Waitangi and has great cultural and spiritual significance for Māori.
22. Marae committees were notified of the proposal and given the opportunity to provide feedback in person, in writing or at a Panel one-on-one event. Māori stakeholders including Māori health organisations were notified of the proposal.
23. Te Herenga Waka o Orewa and Ngatiwai o Aotea Kawa Marae support the proposed clarification of tā moko authorisation by marae to better reflect current practice.
24. The Panel recommendation to adopt the proposal for tā moko supports this feedback.

Ngā ritenga ā-pūtea / Financial implications

25. Public notification and implementation costs will be met within existing budgets.

Ngā raru tūpono / Risks

26. There is a reputational risk that people who provided feedback may not feel council has listened to their concerns. This can be mitigated by staff communicating the reasons for the decisions to those who gave feedback.

Ngā koringa ā-muri / Next steps

27. If adopted, staff will notify the general public and people who gave feedback about the decision and publish an updated version of the Bylaw when it comes into force on 22 November 2018.
28. The Auckland Council Environmental Health Unit will promote and implement any operational changes. The Regulatory Committee will continue to be responsible for the Health and Hygiene Code of Practice (GB/2016/237) which is scheduled for review in 2019.

Ngā tāpirihanga / Attachments

No.	Title	Page
A	Panel deliberations and recommendations to public feedback on proposed changes to Health and Hygiene Bylaw 2013	
B	Comparison of proposed and recommended changes to Health and Hygiene Bylaw 2013	
C	Recommended Health and Hygiene Bylaw 2013 incorporating Panel recommendations	

Ngā kaihaina / Signatories

Author	Councillor Linda Cooper
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Attachment A: Public feedback topics on the proposal to amend the Health and Hygiene Bylaw 2013

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Services that pierce, risk breaking or burning tissue to be licensed</p> <ul style="list-style-type: none"> 31 of 35 feedback responses (89 per cent) support, two opposed. <p>People in support commented:</p> <ul style="list-style-type: none"> People are not always informed on the decisions they make and pay for it later if something goes wrong. Any service that opens the skin to a risk of infection should be licensed and graded like food licences. <p>People opposed commented:</p> <ul style="list-style-type: none"> Should be regulated and have minimum standards, but not sure if licensing is the way forward. Operators should comply with national regulations not local bylaws as creates unnecessary licensing and enforcement costs. Licensing does not stop bad people doing a bad job. All it does is increase cost and bureaucracies which kills small businesses. <p>Changes sought by people:</p> <ul style="list-style-type: none"> Two people opposed any operator licensing. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> Proposal clarifies and extends existing licensing to services that pierce, risk breaking or burning tissue as well as skin. The vaginal area, eyeball, mouth and tongue are membranes which are covered by the broader term "tissue". This requirement is unlikely to cover more operators than are currently licensed as most provide a broad range of services. There are currently no national regulations for these services. 	<p>That the proposal to require services that pierce, risk breaking or burning tissue be licensed be adopted as publicly notified.</p> <p>Reasons include to better protect public health.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Therapeutic massage to comply with minimum standards</p> <ul style="list-style-type: none"> • 30 out of 35 feedback responses (86 per cent) support, four opposed. <p>People in support commented:</p> <ul style="list-style-type: none"> • Massage injury can be serious. <p>People opposed commented:</p> <ul style="list-style-type: none"> • Licensing cost too high (two people). <p>Changes sought by people:</p> <ul style="list-style-type: none"> • Operators need to be licensed. • Operators should be members of Massage New Zealand. • New Zealand Register of Acupuncturists (Acupuncture NZ) request current exemption include massage practised by members as an integral part of acupuncture. Members likely to be covered by the Health Practitioners Competence Assurance Act 2003 next year and would be exempt from the Bylaw. • One marae committee disagreed with minimum standards and considers marae should authorise miri miri – a traditional Māori therapeutic massage practice. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> • Massage is not currently regulated by the Bylaw. • The findings report found that massage had a low risk of infection and a moderate risk of injury. The risk of injury increases when therapists conduct manipulation or mobilisation without the proper skills. <p>Information to assist Panel deliberations</p> <ul style="list-style-type: none"> • Proposal does not require a licence or fee payment as findings report found that massage was a low-risk service that did not require licensing. • Massage by acupuncturists would not be exempt under proposal. 	<p>That the proposal to require therapeutic massage to comply with minimum standards be adopted as publicly notified.</p> <p>Reasons include to better protect public health and because future consultation on the Health and Hygiene Code of Practice can address the feedback from Massage New Zealand members, acupuncturists and Marae.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Waterplay parks and splash pads</p> <ul style="list-style-type: none"> 30 out of 32 feedback responses (94 per cent) support, no feedback responses opposed. <p>People in support commented:</p> <ul style="list-style-type: none"> Any public water facility should be monitored for public safety. Minimum standards would prevent infections. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> Waterplay parks and splash pads can pose the same or greater infection risk as swimming pools but are not currently covered by the Bylaw. The findings report found the number of waterplay parks and splash pads at council parks and recreation centres is increasing. 	<p>That the proposal to require waterplay parks and splash pads to comply with minimum standards be amended to clarify the definition be limited to permanent structures.</p> <p>Reasons include to better protect public health by reducing opportunity for water borne infection. However, requirement not intended to apply to temporary structures such as portable waterslides and paddling pools.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Requirement to display licence</p> <ul style="list-style-type: none"> 29 out of 32 feedback responses (91 per cent) support, one opposed. <p>People in support commented:</p> <ul style="list-style-type: none"> The Cancer Society Auckland Northland strongly supports the requirement to display as it would inform the public that operators minimise risks and raise public awareness. People may then complain if a licence is not displayed, resulting in greater compliance with minimum standards. Operators already voluntarily display licences and would be concerned about any operator that didn't want to display. <p>People opposed commented:</p> <ul style="list-style-type: none"> Should be regulated by national regulations not local bylaws. Disagree with licensing as already in the best interest of operators to voluntarily display their qualifications. <p>Changes sought by people:</p> <ul style="list-style-type: none"> Require grading like food licensing. The Cancer Society Auckland Northland request bylaw requirement to display warning sign at sunbed premises outlining direct link between sunbeds and skin cancer. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> The Bylaw does not currently require operators to display their health licence. <p>Information to assist Panel deliberations</p> <ul style="list-style-type: none"> Code already requires warning signs to be displayed. Their size could be considered in the Code review. 	<p>That the proposal to require operators to display a licence be adopted as publicly notified. Reasons include to better inform the public that the operator is licensed, and to be consistent with other bylaws that require the display of a licence.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Eyeball tattooing prohibited unless carried out by a health practitioner</p> <ul style="list-style-type: none"> 34 out of 43 feedback responses (79 per cent) support, one opposed. <p>People in support commented:</p> <ul style="list-style-type: none"> Eyeball tattooing is extremely dangerous and should be banned. Risk of permanent blindness from an inexperienced tattooist who breaks eyeball tissue is too great and it should only be performed by a qualified doctor. The Royal Australian and New Zealand College of Ophthalmologists (RANZCO) commends the proposed ban. RANZCO considers eyeball tattooing a high-risk procedure that should only be performed by a doctor when medically indicated, such as for specific eye abnormalities. <p>People opposed commented:</p> <ul style="list-style-type: none"> Should be regulated by national regulations not local bylaws. <p>Changes sought by people:</p> <ul style="list-style-type: none"> RANZCO suggests the bylaw wording be changed to “unless carried out by an appropriately qualified health practitioner” as most health practitioners would not have the required specialist training to perform the procedure safely. Papakura Local Board requested that the definition of ‘qualified health practitioner’ be clarified and clearly specified. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> Eyeballs are a membrane and are not clearly regulated by the Bylaw currently. The findings report found that eyeball tattooing can cause retinal detachment, perforation and eye infections that may lead to blindness. <p>Information to assist Panel deliberations</p> <ul style="list-style-type: none"> The proposal provides a general explanation of “health practitioner” and specifies that this means an ophthalmologist in the context of eyeball tattooing. 	<p>That the proposal to require eyeball tattooing be prohibited unless carried out by a health practitioner be amended to:</p> <ul style="list-style-type: none"> include the words ‘<u>appropriately qualified</u>’ health practitioner amend the explanatory note to refer only to an ophthalmologist include ophthalmologist in the explanatory note to the definition of health practitioner. <p>Reasons include clarifying that an ophthalmologist is the only appropriately qualified health practitioner able to perform this procedure.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Tā moko authorisation by marae clarified</p> <ul style="list-style-type: none"> 17 out of 30 feedback responses (57 per cent) support, 10 opposed. Te Herenga Waka o Orewa, Ngatiwai o Aotea Kawa Marae support proposed change. <p>People in support commented:</p> <ul style="list-style-type: none"> Te Herenga Waka o Orewa marae committee is happy with the exemption. <p>People opposed commented:</p> <ul style="list-style-type: none"> All tattooists should be held to the same level of accountability and rules by the same body. While marae are the cultural authority on tā moko artists, health and hygiene standards are a humanity issue and are as relevant to them as they are to non-Māori tattoo artists. Cultural affinity in this instance is about the cultural right to be a tā moko artist and not about health and hygiene. Tā moko artists should comply with national regulations not bylaws. People are still at risk from unqualified practitioners. <p>Changes sought by people:</p> <ul style="list-style-type: none"> Tā moko should be licensed. 	<p>Note: comments do not represent any position of the Panel</p> <p>Background information from bylaw review</p> <ul style="list-style-type: none"> The Bylaw currently exempts “traditional and non-commercial tā moko undertaken by artists on, or under the authority of, a marae in the Auckland region under tikanga-māori” The findings report found that the exemption was working well and there was no evidence of increased health problems. The exemption enables tā moko practice in accordance with council’s obligations under the Treaty of Waitangi. 	<p>That the proposal to clarify tā moko authorisation by marae be adopted as publicly notified.</p> <p>Reasons include to better reflect current practice.</p>

<p>Traditional tattooing coverage under bylaw clarified</p> <ul style="list-style-type: none"> • 19 out of 24 feedback responses (79 per cent) support, two opposed. • Pacific Fono participants had mixed responses to proposal. Most agreed with minimum standards but were divided on licensing. <p>People in support commented:</p> <ul style="list-style-type: none"> • Two traditional tattoo practitioners (Tufuga) felt licensing needed to receive support from council, elevate standards and ensure safety. • Proposed new definition of temporary would better reflect tatau practice. <p>People opposed commented:</p> <ul style="list-style-type: none"> • Cultural differences make no difference to the health risk. Operators should comply with national regulations not local bylaws. • Cultural practices should not sit with the council. • Pasifika people will still practise their tattooing with or without the Bylaw. • Tatau should have the same exemption as tā moko. • Licensing fees are a revenue gathering exercise and could push practice underground. • Difficult to licence visiting traditional tattoo artists. • Two traditional Tufugas opposed licensing because it could give impression that person could practice without going through proper traditional training. Both supported minimum standards. <p>Changes sought by people:</p> <ul style="list-style-type: none"> • Traditional tattooing should not be licensed or comply with minimum standards, or just comply with minimum standards. • An exemption should be made for Tatau practitioners. 	<p>Background information from bylaw review</p> <ul style="list-style-type: none"> • The Bylaw currently requires practitioners to be licensed and comply with minimum standards. • Health risks include blood-borne infection and there have been recorded cases of life-threatening bacterial infection. • The finding report found that traditional Pacific tattooing is an important cultural practice, which is different to commercial tattooing. 	<p>That the proposal to clarify traditional tattooing coverage under the bylaw be adopted as publicly notified.</p> <p>Reasons include to recognise tatau and other traditional tattoo as important cultural practices for members of the Auckland community. This will still require licensing and compliance with minimum standards to minimise health risks to people receiving traditional tattooing in the absence of an alternative authorising body.</p> <p>Note: Decision opposed by Cr Bartley who considered traditional tattooing should be exempt.</p>
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Public feedback topic	Staff comment	Panel recommendation and reasons
<ul style="list-style-type: none"> The Bylaw and Code should be translated into Samoan. One person requested traditional tattooing be banned. 	<p>Note: comments do not represent any position of the Panel</p>	
<p>Sunbeds should be banned</p> <ul style="list-style-type: none"> Auckland Regional Public Health Service and the Cancer Society Auckland Northland request council ban sunbeds in Auckland because of strong link between sunbeds and skin cancer. New Zealand has the world's highest mortality rate from skin cancer and other countries have banned sunbeds. 	<ul style="list-style-type: none"> Operators are currently required to be licensed and comply with minimum standards (including age and skin type restrictions and warning signs). The findings report found that sunbeds are a very high-risk service that can cause melanoma and other skin cancer. 	<p>That the request to ban sunbeds be rejected.</p> <p>Reasons include that recent amendments to the Health Act 1956 allow the practice subject to age restrictions.</p>
<p>Sleep-pods</p> <ul style="list-style-type: none"> Auckland Regional Public Health Service requests council require sleep-pods comply with minimum standards because of concerns regarding transfer of infection, chemical cleaning and ventilation. 	<ul style="list-style-type: none"> The findings report found that sleep-pods pose a low-risk of transfer of infections from bedding and poor ventilation. There was no sleep-pod style accommodation in Auckland when the findings report was prepared but a resource consent application has been lodged for this style of accommodation recently. 	<p>That the request to licence sleep-pods to comply with minimum standards be rejected.</p> <p>Reasons include the low-risk of harm from sleep-pods.</p>
<p>Swimming pools should be licensed</p> <ul style="list-style-type: none"> Auckland Regional Public Health Service requests swimming pools and spa pools be licensed because of health risks (gastroenteritis and legionella). 	<ul style="list-style-type: none"> Swimming pools and spas are currently required to comply with minimum standards. The findings report found that swimming pools and spas pose a risk of bacterial and fungal infection, including giardia, norovirus and legionella. 	<p>That the request to licence swimming pools be rejected.</p> <p>Reasons include that the health risk is not at a level to justify licensing and swimming pools are currently required to meet minimum standards.</p>
<p>Further restrictions on tattooing</p> <ul style="list-style-type: none"> All tattoo artists should be individually licensed to improve tattoo standards in line with the United States and other countries. 	<ul style="list-style-type: none"> The findings report found that tattooing is a very-high risk service and there are problems with unlicensed operators tattooing young people. 	<p>That the request for further restrictions on tattooing be rejected.</p> <p>Reasons include:</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<ul style="list-style-type: none"> • Papakura Local Board requests: <ul style="list-style-type: none"> ○ 21-year minimum age for non-traditional tattoo ○ prohibition of tattoo at family events ○ restriction of tattoo premises location. 	<p>Note: comments do not represent any position of the Panel</p> <ul style="list-style-type: none"> • The Bylaw currently provides that a manager must obtain a licence and not individual service providers. • The location of tattoo premises is governed by the Auckland Unitary Plan. 	<ul style="list-style-type: none"> • the licensee is best placed to train and manage staff • age restrictions are in the code of practice and are consistent with age of majority for other age restricted activities • difficult to define a family event and to enforce • the location of tattoo premises is governed by the Auckland Unitary Plan.
<p>Guidance on exercise equipment</p> <ul style="list-style-type: none"> • Auckland Regional Public Health Service requests that non-regulatory hygiene guidance be provided for exercise equipment used by multiple people. 		<p>That the request for guidance on exercise equipment be rejected. Reasons include that gymnasiums appropriately address public health risks with their own cleaning procedures.</p>
<p>Pharmacists should comply with minimum standards</p> <ul style="list-style-type: none"> • Pharmacists are performing piercing with little training using unsterilized and inappropriate jewellery and giving incorrect aftercare advice. Their use of piercing guns is unacceptable. 	<ul style="list-style-type: none"> • The Bylaw currently exempts commercial piercing undertaken in a pharmacy licensed by the Ministry of Health. Pharmacists must comply with existing industry-based regulations. 	<p>That the request for pharmacists to comply with minimum standards for ear piercing be rejected. Reasons include that pharmacists have their own appropriate industry-based regulations.</p>
<p>Omnibus provision</p> <ul style="list-style-type: none"> • Auckland Regional Public Health Service requests that an omnibus provision be included to cover emerging issues without the need to consult on a proposed amendment. 	<ul style="list-style-type: none"> • The Bylaw can be amended at any time, but council must consider whether a special consultative procedure is required (Local Government Act 2002, section 156). • Council officers can take action against a health nuisance at any time (Health Act 1956). 	<p>That the request to enable emerging issues to be covered in the bylaw without the need to consult be rejected. Reasons include that any bylaw amendment must by law use a consultative process.</p>

Public feedback topic	Staff comment	Panel recommendation and reasons
<p>Administrative changes</p> <ul style="list-style-type: none"> • Staff propose reformatting the proposed Bylaw to meet new internal guidelines that improve user accessibility. • Staff propose clarification of the “temporary premises” definition to correct an inconsistency in the statement of proposal. 	<p>Note: comments do not represent any position of the Panel</p>	<p>That the administrative changes be accepted. Reasons include to improve user accessibility and to clarify the definition of temporary premises.</p>

Attachment B: Comparison of proposed and recommended changes to Health and Hygiene Bylaw 2013

The comparison table excludes definitions not recommended to be changed by the Panel, annotations of changes and history of the bylaw to reduce the size of this attachment. The definitions, annotations and bylaw history are shown in Attachment C. The recommended changes to proposal by the Panel show additions underlined and deletions in ~~strikethrough~~.

Proposed Bylaw	Recommended changes to proposal by the Panel
<p>Health and Hygiene Bylaw 2013 Te Ture ā-Rohe Whakamaru Hauora 2013 (as at 30 October 2014) Made by the Governing Body of Auckland Council by Resolution in Council 27 June 2013 (amended by minute GB/2014/120 with effect from 1 November 2014) (amended by minute GB/yyyy/## with effect from dd month yyyy) Pursuant to the Local Government Act 2002 and the Health Act 1956, the Governing Body of Auckland Council makes the following bylaw.</p>	<p>[Replace proposed Bylaw text with the following]</p> <p><u>Te Ture ā-Rohe Whakamaru Hauora 2013</u> <u>Health and Hygiene Bylaw 2013</u> (as at <u>22 November 2018</u>) made by the <u>Governing Body of Auckland Council</u> <u>in resolution GB/2013/66</u> <u>on 27 June 2013</u></p> <p><u>Bylaw made under section 145 of the Local Government Act 2002 and section 64 of the Health Act 1956.</u></p>
	<p><u>Summary</u> <u>This summary is not part of the Bylaw but explains the general effects.</u> <u>Services that contact the skin can cause infection or injury if operators have poor health and hygiene practices. Services include beauty and health treatments, tattoo, body piercing and swimming pools.</u></p>

Proposed Bylaw

Recommended changes to proposal by the Panel

The purpose of this Bylaw is to require people who provide you with these services to meet minimum health and hygiene standards by—

- identifying which services must comply with minimum standards, including services that pierce, risk breaking or risk burning the skin or tissue, therapeutic massage, colon hydrotherapy, swimming pools, water play parks and splash pads in clause 6
 - identifying which services must be licensed, including services that pierce, risk breaking or risk burning the skin or tissue (e.g. dermal filler, hair removal, manicure/pedicure, sunbeds) in clause 7
 - requiring the display of health protection licences in clause 7
 - restricting provision of eyeball tattoo services to qualified health practitioners (ophthalmologists) in clause 8
 - exempting certain practitioners from the Bylaw, for example pharmacists that provide ear piercing in clause 9
 - enabling the development of the Health and Hygiene Code of Practice 2013, which contains minimum standards for all services covered by the Bylaw in clauses 10 and 11.
- Other parts of this Bylaw assist with its administration by —
- stating the purpose of this Bylaw and defining terms used in clauses 4 and 5
 - referencing Council's powers to enforce this Bylaw, including powers to take property and penalties up to \$20,000 in clauses 12 and 13.

Proposed Bylaw		Recommended changes to proposal by the Panel	
1	Title	1	Title
	(1) This bylaw is the Health and Hygiene Bylaw 2013.		(1) This bylaw is the Health and Hygiene Bylaw 2013.
2	Commencement	2	Commencement
	(1) This bylaw comes into force on 01 July 2014.		(1) This bylaw comes into force on 01 July 2014.
	(2) Amendments to clause 9 by resolution GB/yyyy/## come into force three months after the date of the resolution.		(2) Amendments to clause <u>9Z</u> by resolution GB/yyyy/## come into force three months after the date of the resolution on <u>01 March 2019</u> .
	(3) All other amendments by resolution GB/yyyy/## come into force on the date of the resolution.		(3) All other amendments by resolution GB/yyyy/## come into force on the date of the resolution <u>22 November 2018</u> .
3	Application	3	Application
	(1) This bylaw applies to Auckland.		(1) This bylaw applies to Auckland.

Part 1 Preliminary Provisions	Part 1 Preliminary Provisions
<p>4 Purpose</p> <p>(1) The purpose of this bylaw is to promote and protect public health by —</p> <p>(a) requiring certain services with the following health risks to comply with minimum standards, including —</p> <ul style="list-style-type: none"> (i) any commercial service that pierces the skin or tissue; (ii) any commercial service that risks breaking the skin or tissue; (iii) any commercial service that risks burning the skin or tissue; (iv) any tattooing or traditional tools tattooing that has recognised cultural significance; (v) any commercial service involving colon hydrotherapy; (vi) public swimming pools, public water play park or splash pad; or (vii) therapeutic massage. <p>(b) requiring a licence for certain services, including —</p> <ul style="list-style-type: none"> (i) any commercial service that pierces the skin or tissue; (ii) any commercial service that risks breaking the skin or tissue; (iii) any commercial service that risks burning the skin or tissue; or (iv) any tattooing or traditional tools tattooing that has recognised cultural significance. 	<p>4 Purpose</p> <p>(1) The purpose of this bylaw is to promote and protect public health by —</p> <p>(a) requiring certain services with the following health risks to comply with minimum standards, including —</p> <ul style="list-style-type: none"> (i) any commercial service that pierces the skin or tissue; (ii) any commercial service that risks breaking the skin or tissue; (iii) any commercial service that risks burning the skin or tissue; (iv) any tattooing or traditional tools tattooing that has recognised cultural significance; (v) any commercial service involving colon hydrotherapy; (vi) public swimming pools, public water play park or splash pad; or (vii) therapeutic massage. <p>(b) requiring a licence for certain services, including —</p> <ul style="list-style-type: none"> (i) any commercial service that pierces the skin or tissue; (ii) any commercial service that risks breaking the skin or tissue; (iii) any commercial service that risks burning the skin or tissue; or (iv) any tattooing or traditional tools tattooing that has recognised cultural significance.

5 Interpretation	5 Interpretation
<p>Council means the governing body of the Auckland Council or any person delegated to act on its behalf.</p>	<p>Council means the governing body of the Auckland Council or any person delegated to act on its behalf.</p> <p><u>Related information: Regulatory Committee has delegated authority to make a code of practice under clause 10 (GB/2016/237, as at 26 July 2018).</u></p> <p><u>Council's Environmental Health Unit has delegated authority to administer and enforce this Bylaw (excluding clause 10, as at August 2018).</u></p>
<p>Health practitioner means a person who is, or is deemed to be, registered under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession.</p> <p><i>Explanatory note: Health practitioners include doctors, nurses, physiotherapists, chiropractors and osteopaths.</i></p>	<p>Health practitioner means a person who is, or is deemed to be, registered under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession.</p> <p><u>Explanatory note-Related information:</u> Health practitioners include professionals working as doctors, nurses, physiotherapists, <u>ophthalmologists</u>, optometrists, podiatrists, chiropractors and osteopaths.</p>
<p>Public water play park or splash pad means a recreation area that is constructed to be used for water play (including sprinklers, fountains and nozzles) and is drained to allow for little or no standing water. It includes commercial, school, institutional, club, hospitality, and local authority water play parks and splash pads. It does not include water play parks and splash pads for domestic use only.</p>	<p>Public water play park or splash pad means a recreation area that is a <u>permanent construction</u> to be used for water play (including sprinklers, fountains and nozzles) and is drained to allow for little or no standing water. It includes commercial, school, institutional, club, hospitality, community, and local authority water play parks and splash pads. It does not include water play parks and splash pads for domestic use only or <u>temporary structures such as portable water slides and portable paddling pools.</u></p>

<p>Temporary premises means any location where any service is undertaken by any person on an irregular basis for not more than 40 hours within any 90 day period.</p> <p><i>Explanatory note: temporary premises include, for example, residential dwellings, apisā at a fale or moata, events or markets.</i></p>	<p>Temporary premises means any location where any service is undertaken by any person on an irregular basis for not more than 40 hours within any 90-day period, and the primary purpose of that location is not ordinarily the provision of that service.</p> <p><i>Explanatory note-Related information:</i> temporary premises include, for example, residential dwellings, apisā at a fale or moata, events or markets.</p>
<p>Part 2 Regulation of certain services for health protection</p>	
<p>6 Health protection code of practice</p> <p>(1) The council may make, amend or revoke a code of practice about any service in clause 8.</p> <p>(2) Every code of practice adopted under (1) may specify –</p> <p>(a) minimum standards for the operation of those services, including (but not limited to):</p> <ul style="list-style-type: none"> (i) operator conduct, training and qualifications; (ii) premises construction, facilities and maintenance; (iii) equipment, supplies and products used; (iv) cleaning, sterilisation and disposal of waste products (v) customer age restrictions, consent and after care advice; (vi) record keeping; and <p>(b) recommended best practice for the operation of those services.</p>	<p>610 Health protection code of practice</p> <p>(1) The council may make, amend or revoke a code of practice about any service in clause 86.</p> <p>(2) Every code of practice adopted under (1) may specify –</p> <p>(a) minimum standards for the operation of those services, including (but not limited to):</p> <ul style="list-style-type: none"> (i) operator conduct, training and qualifications; (ii) premises construction, facilities and maintenance; (iii) equipment, supplies and products used; (iv) cleaning, sterilisation and disposal of waste products (v) customer age restrictions, consent and after care advice; (vi) record keeping; and <p>(b) recommended best practice for the operation of those services.</p>

<p>7 Procedure for making a code of practice</p> <p>(1) The council must, before making, amending or revoking a code of practice in clause 6 —</p> <p>(a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.</p> <p>(b) consult with —</p> <p>(i) medical officers of health in the Auckland region; and</p> <p>(ii) any affected operators;</p> <p>(c) be satisfied that —</p> <p>(i) the standards are the minimum necessary to ensure that the purpose of the Bylaw will be met; and</p> <p>(ii) the recommendations for best practice (if any) are appropriate.</p> <p>(d) have regard to —</p> <p>(i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and</p> <p>(i) any other matters considered relevant by the council.</p> <p>(2) A code of practice made, amended or revoked under subclause (1) must be publicly notified.</p>	<p>711 Procedure for making a code of practice</p> <p>(1) The council must, before making, amending or revoking a code of practice in clause 10 —</p> <p>(a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.</p> <p>(b) consult with —</p> <p>(i) medical officers of health in the Auckland region; and</p> <p>(ii) any affected operators;</p> <p>(c) be satisfied that —</p> <p>(i) the standards are the minimum necessary to ensure that the purpose of the Bylaw will be met; and</p> <p>(ii) the recommendations for best practice (if any) are appropriate.</p> <p>(d) have regard to —</p> <p>(i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and</p> <p>(i) any other matters considered relevant by the council.</p> <p>(2) A code of practice made, amended or revoked under subclause (1) must be publicly notified.</p>
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<p>8 Services allowed subject to minimum standards</p> <p>(1) The operator of any of the following services must comply with relevant standards set by the council in a code of practice made under clause 6 –</p> <ul style="list-style-type: none"> (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling; (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation; (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment; (d) any tattooing or traditional tools tattooing that has recognised cultural significance; (e) any commercial service involving colon hydrotherapy; (f) public swimming pool, public water play park or splash pad; or (g) therapeutic massage. 	<p>86 Services allowed subject to minimum standards</p> <p>(1) The operator of any of the following services must comply with relevant standards set by the council in a code of practice made under clause 6¹⁰ –</p> <ul style="list-style-type: none"> (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling; (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation; (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment; (d) any tattooing or traditional tools tattooing that has recognised cultural significance; (e) any commercial service involving colon hydrotherapy; (f) public swimming pool, public water play park or splash pad; or (g) therapeutic massage.
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<p>9 Services requiring a licence</p> <p>(1) This clause applies to the following services –</p> <ul style="list-style-type: none"> (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling; (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation; or (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment; or (d) any tattooing or traditional tools tattooing that has recognised cultural significance. <p>(2) The manager of any service to which this clause applies must —</p> <ul style="list-style-type: none"> (a) obtain a licence from the council before commencing operation; and (b) hold a valid and unexpired licence from the council at all times that the commercial service is offered; and (c) conspicuously display a copy of a valid licence at the principal entrance or reception of any permanent premises or mobile premises in full and unobscured view to the satisfaction of the council; (d) ensure operators carry a copy of a valid licence on their person at all times when providing a service at a temporary premises and show the licence to the customer prior to providing a service. 	<p>9Z Services requiring a licence</p> <p>(1) This clause applies to the following services —</p> <ul style="list-style-type: none"> (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling; (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation; or (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment; or (d) any tattooing or traditional tools tattooing that has recognised cultural significance. <p>(2) The manager of any service to which this clause applies must —</p> <ul style="list-style-type: none"> (a) obtain a licence from the council before commencing operation; and (b) hold a valid and unexpired licence from the council at all times that the commercial service is offered; and (c) conspicuously display a copy of a valid licence at the principal entrance or reception of any permanent premises or mobile premises in full and unobscured view to the satisfaction of the council; (d) ensure operators carry a copy of a valid licence on their person at all times when providing a service at a temporary premises and show the licence to the customer prior to providing a service.
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10 Restricted services

- (1) Commercial services that pierce the eyeball (including eyeball tattooing) are prohibited unless undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession.

Explanatory note: Health practitioners that may perform these services include ophthalmologists (eye specialists).

408 Restricted services

- (1) Commercial services that pierce the eyeball (including eyeball tattooing) are prohibited unless undertaken by appropriately qualified health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession.

Explanatory note-Related information: Ophthalmologists (eye specialists) are the only health practitioners that can currently carry out eyeball tattoo. Health practitioners that may perform these services include ophthalmologists (eye specialists).

<p>11 Exemptions</p> <p>(1) Clauses 8 and 9 do not apply to –</p> <p>(a) any commercial service undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession;</p> <p>(b) acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority; or</p> <p>(c) commercial ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.</p> <p>(2) Ko ngā mahi tā moko a te kaitāmoko me whakamana e tētahi marae no roto i te rohe o Te Kaunihera o Tāmaki Makaurau he ai ki te tikanga Māori ka noho wātea i ngā here o tēnei ture a-rohe. Heoi anō rā me whaiwhakaaro tonu pea te marae ki te itinga rawa o ngā paerewa takinga a mahi i raro i te whiti 6, me te whakawhāiti i te roanga o te wā e mau ai te whakamana.</p> <p><i>Explanatory Note: Clause 11(2) in English, means tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in Auckland and in accordance with tikanga-Māori (traditional Māori customs) is exempt from compliance with this bylaw. Marae should consider the minimum standards in the code of practice made under clause 6, and a limit to the duration of the authorisation.</i></p> <p><i>Tā moko are a taonga (or cultural treasure) and are protected under the Treaty of Waitangi Principles.</i></p>	<p>149 Exemptions</p> <p>(1) Clauses 86 and 97 do not apply to –</p> <p>(a) any commercial service undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession;</p> <p>(b) acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority; or</p> <p>(c) commercial ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.</p> <p>(2) Ko ngā mahi tā moko a te kaitāmoko me whakamana e tētahi marae nō roto i te rohe o Te Kaunihera o Tāmaki Makaurau he ai ki te tikanga Māori ka noho wātea i ngā here o tēnei ture a-rohe. Heoi anō rā me whaiwhakaaro tonu pea te marae ki te itinga rawa o ngā paerewa takinga a mahi i raro i te whiti 610, me te whakawhāiti i te roanga o te wā e mau ai te whakamana.</p> <p><i>Explanatory note Related information: Clause 149(2) in English, means tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in Auckland and in accordance with tikanga-Māori (traditional Māori customs) is exempt from compliance with this bylaw. Marae should consider the minimum standards in the code of practice made under clause 610, and a limit to the duration of the authorisation.</i></p> <p><i>Tā moko are a taonga (or cultural treasure) and are protected under the Treaty of Waitangi Principles.</i></p>
Part 3 Licences	Part 3 Controls and Licences

<p>12 Health protection licences</p> <p>(1) The council may make controls and set fees for the following matters with respect to any licence required by clause 9 –</p> <ul style="list-style-type: none"> (a) applying for a licence, including forms and information; (b) assessing an application for a licence, including inspection; (c) granting or declining an application for a licence; (d) the conditions that may be imposed on a licence; (e) the duration of the licence; (f) objecting about a decision to decline a licence, including the objection period; (g) objecting about a condition of a licence, including the objection period; (h) conducting inspections to ensure that a licence and its conditions are complied with; (i) reviewing a licence or its conditions; (k) refunding or waiving fees; (l) suspending or cancelling a licence; and (m) objecting about a decision to suspend or cancel a licence, including the objection period. <p>(2) At the discretion of the council, and having regard to any controls made under subclause (1), licences may be declined, or granted subject to any conditions.</p> <p>(3) If no controls are made about the duration of a licence under subclause (1)(e), a licence has a duration of 12 months from the date granted.</p> <p>(4) A licence is personal to the holder and is not transferable.</p>	<p>12 Health protection licences</p> <p>(1) The council may make controls and set fees for the following matters with respect to any licence required by clause 9 –</p> <ul style="list-style-type: none"> (a) applying for a licence, including forms and information; (b) assessing an application for a licence, including inspection; (c) granting or declining an application for a licence; (d) the conditions that may be imposed on a licence; (e) the duration of the licence; (f) objecting about a decision to decline a licence, including the objection period; (g) objecting about a condition of a licence, including the objection period; (h) conducting inspections to ensure that a licence and its conditions are complied with; (i) reviewing a licence or its conditions; (k) refunding or waiving fees; (l) suspending or cancelling a licence; and (m) objecting about a decision to suspend or cancel a licence, including the objection period. <p>(2) At the discretion of the council, and having regard to any controls made under subclause (1), licences may be declined, or granted subject to any conditions.</p> <p>(3) If no controls are made about the duration of a licence under subclause (1)(e), a licence has a duration of 12 months from the date granted.</p> <p>(4) A licence is personal to the holder and is not transferable.</p>
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Part 4 Enforcement, offences, penalties	Part 4 Enforcement powers, offences, penalties
<p>13 Enforcement</p> <p>(1) The council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.</p> <p>(2) Without limiting subclause (1), any person authorised by the council to undertake inspections under this Bylaw may take or remove a sample or thing for analysis, for the purpose of determining whether or not this Bylaw is being complied with.</p>	<p>1314 Enforcement Compliance with the bylaw</p> <p>(1) The council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.</p> <p>(2) Without limiting subclause (1), any person authorised by the council to undertake inspections under this Bylaw may take or remove a sample or thing for analysis, for the purpose of determining whether or not this Bylaw is being complied with.</p> <p>Related information</p> <p><u>Local Government Act 2002 enforcement powers include: court injunction (section 162), seizure and disposal of property (sections 164, 165, 168), powers of entry (sections 171, 172, 173), and power to request name and address (section 178) (as reprinted on 1 July 2018).</u></p> <p><u>Health Act 1956 enforcement powers include: court orders (section 33), cost recovery for council to abate nuisance (section 34), requiring the cleaning of premises (section 41), powers of entry (section 128), and power to request name and address (section 134) (as reprinted on 2 March 2018).</u></p>

<p>14 Offences and penalties</p> <p>(1) A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.</p>	<p>14 Offences and penalties <u>Bylaw breaches</u></p> <p>(1) A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.</p> <p><u>Related information</u></p> <p>A person who is convicted of an offence against a bylaw can be:</p> <ul style="list-style-type: none"> • <u>fined a maximum of \$20,000 under the Local Government Act 2002 (section 242, as reprinted on 1 July 2018)</u> • <u>fined a maximum of \$500 under the Health Act 1956 (section 66, as reprinted on 2 March 2016)</u> • <u>where the offence is continuing, fined a maximum of \$50 every day the offence continues under the Health Act 1956 (section 66, as reprinted on 2 March 2016)</u> • <u>where a person provides artificial tanning services to a person under 18, fined a maximum of \$2,000 for an individual or \$10,000 for a body corporate under the Health Act 1956 (section 114, as reprinted on 2 March 2018).</u>
<p>Part 5 [repealed]</p>	<p>Part 5 [repealed]</p>

**Auckland
Council**

Te Kaunihera o Tāmaki Makaurau



Te Ture ā-Rohe Whakamaru Hauora 2013 Health and Hygiene Bylaw 2013

(as at 22 November 2018)

made by the Governing Body of Auckland Council

in resolution GB/2013/66

on 27 June 2013

Bylaw made under [section 145](#) of the Local Government Act 2002 and [section 64](#) of the Health Act 1956.

Summary

This summary is not part of the Bylaw but explains the general effects.

Services that contact the skin can cause infection or injury if operators have poor health and hygiene practices. Services include beauty and health treatments, tattoo, body piercing and swimming pools.

The purpose of this Bylaw is to require people who provide you with these services to meet minimum health and hygiene standards by–

- **identifying** which services must comply with **minimum standards**, including services that pierce, risk breaking or risk burning the skin or tissue, therapeutic massage, colon hydrotherapy, swimming pools, water play parks and splash pads in clause 6
- **identifying** which services must be **licensed**, including services that pierce, risk breaking or risk burning the skin or tissue (e.g. dermal filler, hair removal, manicure/pedicure, sunbeds) in clause 7
- **requiring the display** of health protection licences in clause 7
- **restricting** provision of eyeball tattoo services to qualified health practitioners (ophthalmologists) in clause 8
- **exempting** certain practitioners from the Bylaw, for example pharmacists that provide ear piercing in clause 9
- **enabling** the development of the Health and Hygiene Code of Practice 2013, which contains minimum standards for all services covered by the Bylaw in clauses 10 and 11.

Other parts of this Bylaw assist with its administration by –

- stating the purpose of this Bylaw and defining terms used in clauses 4 and 5
- referencing Council's powers to enforce this Bylaw, including powers to take property and penalties up to \$20,000 in clauses 12 and 13.

Contents

Clause	Description	Page
1	Title	2
2	Commencement	2
3	Application	2

Part 1
Preliminary provisions

4	Purpose	2
5	Interpretation.....	3

Part 2
Regulation of certain services for health protection

6	Services allowed subject to minimum standards	6
7	Services requiring a licence	7
8	Restricted services	7
9	Exemptions	8

Part 3
Controls and Licences

10	Health protection code of practice	8
11	Procedure for making a code of practice	9
12	Health protection licences.....	9

Part 4
Enforcement powers, offences, penalties

13	Compliance with the bylaw	10
14	Bylaw breaches	11

Part 5
[repealed]

1 Title

- (1) This bylaw is the Health and Hygiene Bylaw 2013.

2 Commencement

- (1) This bylaw comes into force on 01 July 2014.
- (2) Amendments to clause 7 by resolution GB/yyyy/## come into force on 01 March 2019.
- (3) All other amendments by resolution GB/yyyy/## come into force on 22 November 2018.

Clause 2 amended by minute GB/YYYY/##, in force on 22 November 2018 to insert subclause (2) and (3).

3 Application

- (1) This bylaw applies to Auckland.

Part 1**Preliminary provisions****4 Purpose**

- (1) The purpose of this bylaw is to promote and protect public health by —
- (a) requiring certain services with the following health risks to comply with minimum standards, including —
- (i) any commercial service that pierces the skin or tissue;
 - (ii) any commercial service that risks breaking the skin or tissue;
 - (iii) any commercial service that risks burning the skin or tissue;
 - (iv) any tattooing or traditional tools tattooing that has recognised cultural significance;
 - (v) any commercial service involving colon hydrotherapy;
 - (vi) public swimming pools, public water play park or splash pad; or
 - (vii) therapeutic massage.
- (b) requiring a licence for certain services, including —
- (i) any commercial service that pierces the skin or tissue;
 - (ii) any commercial service that risks breaking the skin or tissue;
 - (iii) any commercial service that risks burning the skin or tissue; or
 - (iv) any tattooing or traditional tools tattooing that has recognised cultural significance.

Clause 4 amended by minute GB/YYYY/##, in force 22 November 2018 to include reference to tissue, culturally significant tattoo, public water play park or splash pad and therapeutic massage.

5 Interpretation

(1) In this bylaw, unless the context otherwise requires —

Acupuncture means a practice involving the insertion of filiform (very narrow) needles through the skin and tissues for the intended purpose of alleviating ailments or injuries.

Body piercing means a practice of piercing the skin for decorative purposes, inserting jewellery or implants to alter the appearance of the skin.

Colon hydrotherapy means a practice of introducing liquids into the rectum and colon via the anus and is intended to remove faeces and non-specific toxins from the colon and intestinal tract.

Commercial ear-piercing means a practice of piercing the ear for decorative purposes, inserting jewellery or implants to alter the appearance of the skin.

Definition inserted by minute GB2014/120, in force on 1 November 2014.

Commercial service means a service (whether from permanent premises, temporary premises or mobile premises) provided by one or more persons for another person for monetary payment or any other consideration.

Council means the governing body of the Auckland Council or any person delegated to act on its behalf.

Related information

Regulatory Committee has delegated authority to make a code of practice under clause 10 (GB/2016/237, as at 26 July 2018).

Council's Environmental Health Unit has delegated authority to administer and enforce this Bylaw (excluding clause 10, as at August 2018).

Customer means a person on whom a service is being, or is to be, carried out.

Derma rolling / stamping means a practice of using micro needles to create tiny punctures in the skin intended to stimulate growth factors to enhance collagen production and better alignment of the collagen fibres.

Electrolysis means a practice involving the insertion of a sterilised needle into individual hair follicles to the root. An electric impulse is passed through the needle to the root area to aid in the removal of hair.

Exfoliation means a practice that intends to remove dead skin and can be performed using microdermabrasion, physical peels that have an abrasive action and chemical peels such as glycolic or enzyme.

Extractions means a practice for the removal of comedones (blackheads), pimples and ingrown hairs by manipulating the pores of the skin, either with fingertips or a tool, to remove sebum. Some extractions can involve penetration of the skin using sharp equipment such as a metal tool or lance.

Eyeball Tattooing means a practice of piercing any part of the eye (including but not limited to the sclera and surrounding tissues) and inserting pigments, dyes or any object.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018 .

Hair removal means the removal of hair by waxing (pulling the hair from the skin using soft wax, hot wax or glucose); threading (lifting the hair out from the follicle by entwined thread); or tweezing (grasping hairs and pulling them out of the skin, including epilation - a mechanical means of tweezing).

Health practitioner means a person who is, or is deemed to be, registered under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession.

Related information

Health practitioners include professionals working as doctors, nurses, physiotherapists, ophthalmologists, optometrists, podiatrists, chiropractors and osteopaths.

Laser treatment means a practice involving the use of a laser device, which amplifies light and usually produces an extremely narrow beam of a single wavelength (one colour), intended to remove hair or for skin photo-rejuvenation.

Licence means a licence, permit or approval to do something under this bylaw and includes all conditions to which the licence is subject.

Manager means

- (a) a person who has effective control over operators; or
- (b) if no person meets the description in (a), **manager** has the same meaning as **operator**.

Definition amended by minute GB/YYYY/##, in force on 22 November 2018.

Manicure means beautification or enhancement of the hands and fingernails, including shaping and polishing.

Mobile premises means any location other than a permanent premises where any service is undertaken on an ongoing and regular basis by any person.

Operator means a person who carries out a service.

Pedicure means beautification or enhancement of the feet and toenails by shaping and polishing toenails and exfoliation of skin or tissue from the feet.

Permanent premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied where any service is undertaken on an on-going and regular basis by any person. All lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

Definition amended by minute GB/YYYY/##, in force on 22 November 2018.

Public swimming pool means a water-retaining structure, wholly or partially of artificial construction and generally having a circulation and filtration system, designed for recreational, training or therapeutic use, and includes commercial, school, institutional, club, hospitality, community, and local authority pools. It does not include pools for domestic use only.

Public water play park or splash pad means a recreation area that is a permanent construction to be used for water play (including sprinklers, fountains and nozzles) and is drained to allow for little or no standing water. It includes commercial, school, institutional, club, hospitality, community, and local authority water play parks and splash pads. It does not include water play parks and splash pads for domestic use only or temporary structures such as portable water slides and portable paddling pools.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018.

Pulsed light means a practice using a powerful flash of broad spectrum, non-coherent light intended to remove hair and/or for skin photo-rejuvenation, and may include but is not limited to Intense Pulsed Light and Variable Pulsed Light.

Red vein treatment means a practice of piercing a vein with a needle along the length of a damaged capillary, causing little dams or blockages along the vessel.

Skin piercing [repealed]

Definition repealed by minute GB/YYYY/##, in force on 22 November 2018.

Skin is included in the definition of **tissue** and means the outer surface covering the body and is made up of the outer epidermis, middle dermis and deep subcutaneous tissue.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018.

Sun-bed (tanning unit) means an electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation.

Tattooing means a practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues. Tattooing includes the process known as pigment implantation and permanent makeup.

Temporary premises means any location where any service is undertaken by any person on an irregular basis and the primary purpose of that location is not ordinarily the provision of that service.

Related information

Temporary premises include, for example, residential dwellings, apisā at a fale or maota, events or markets.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018.

Therapeutic massage means the rubbing and kneading of muscular tissue to relieve tension or pain, and excludes commercial sexual services as defined in the Prostitution Reform Act 2003.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018.

Tissue means a collection of similar cells that together carry out a specific function. It includes connective tissue, such as blood, bones and ligaments, muscular tissue, nervous tissue, membranes and skin.

Definition inserted by minute GB/YYYY/##, in force on 22 November 2018.

Traditional tools tattooing means a practice of making indelible marks in the human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissue using tools that are culturally traditional in structure and used in procedures such as tā moko, tatau, uhi or any other traditional tattooing practice that has recognised cultural significance.

- (2) Related information does not form part of this Bylaw and may be inserted, changed or removed without any formality.

Clause 5(2) amended by minute GB/YYYY/##, in force on 22 November 2018 to use terms that make it clear what text does not form part of this Bylaw.

- (3) The Interpretation Act 1999 applies to this bylaw.

Part 2

Regulation of certain services for health protection

6 Services allowed subject to minimum standards

- (1) The operator of any of the following services must comply with relevant standards set by the council in a code of practice made under clause 10 —
- (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;
 - (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation;
 - (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment;
 - (d) any tattooing or traditional tools tattooing that has recognised cultural significance;
 - (e) any commercial service involving colon hydrotherapy;
 - (f) public swimming pool, public water play park or splash pad; or
 - (g) therapeutic massage.

Clause 6 amended by minute GB/YYYY/##, in force on 22 November 2018 to renumber it (previously clause 8), to refer to renumbered clause 10 (previously clause 6) and to include reference to tissue, culturally significant tattoo, public water play park or splash pad and therapeutic massage.

7 Services requiring a licence

- (1) This clause applies to the following services —
- (a) any commercial service that pierces the skin or tissue, including but not limited to tattooing, traditional tools tattooing, body piercing, acupuncture, electrolysis, extractions, red vein treatment, or derma rolling;

- (b) any commercial service that risks breaking the skin or tissue, including but not limited to hair removal, manicure, pedicure, or exfoliation; or
 - (c) any commercial service that risks burning the skin or tissue, including but not limited to sun-bed (tanning unit), pulsed light, or laser treatment; or
 - (d) any tattooing or traditional tools tattooing that has recognised cultural significance.
- (2) The manager of any service to which this clause applies must —
- (a) obtain a licence from the council before commencing operation; and
 - (b) hold a valid and unexpired licence from the council at all times that the commercial service is offered; and
 - (c) conspicuously display a copy of a valid licence at the principal entrance or reception of any permanent premises or mobile premises in full and unobscured view to the satisfaction of the council;
 - (d) ensure operators carry a copy of a valid licence on their person at all times when providing a service at a temporary premises and show the licence to the customer prior to providing a service.

Clause 7 amended by minute GB/YYYY/##, in force on 01 March 2019 to renumber it (previously clause 9) and to include reference to tissue, culturally significant tattoo and display of licences.

8 Restricted services

- (1) Commercial services that pierce the eyeball (including eyeball tattooing) are prohibited unless undertaken by appropriately qualified health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession.

Related information

Ophthalmologists (eye specialists) are the only health practitioners that can currently carry out eyeball tattoo.

New clause 8 inserted by minute GB/YYYY/##, in force on 22 November 2018.

9 Exemptions

- (1) Clauses 6 and 7 do not apply to —
- (a) any commercial service undertaken by health practitioners covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession;
 - (b) acupuncture undertaken by members of the New Zealand Register of Acupuncturists or members of the New Zealand Acupuncture Standards Authority;
 - (c) commercial ear-piercing services undertaken in a pharmacy licenced by the Ministry of Health.
- (2) Ko ngā mahi tā moko a te kaitāmoko me whakamana e tētahi marae nō roto i te rohe o Te Kaunihera o Tāmaki Makaurau he ai ki te tikanga Māori ka noho wātea i ngā here o tēnei ture ā-rohe. Heoi anō rā me whaiwhakaaro tonu pea te marae ki te itinga rawa o ngā paerewa takinga ā-mahi i raro i te whiti 10, me te whakawhāiti i te roanga o te wā e mau ai te whakamana.

Related information

Clause 9(2) in English means tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in Auckland and in accordance with tikanga-Māori (traditional Māori customs) is exempt from compliance with this bylaw. Marae should consider the minimum standards in the code of practice made under clause 10 and a limit to the duration of the authorisation. Tā moko are a taonga (or cultural treasure) and are protected under the Treaty of Waitangi Principles.

Clause 9(1) (previously clause 10) amended by minute GB2014/120, in force on 1 November 2014 to include subclause (1)(c) about commercial ear-piercing services.

Clause 9 amended by minute GB/YYYY/##, in force on 22 November 2018 to renumber it (previously clause 10), to refer to renumbered clause 6 (previously clause 8) and clause 7 (previously clause 9) and to more clearly reflect current traditional Māori tattooing practice.

Part 3**Controls and licences**

Part 3 heading amended by minute GB/yyyy/##, in force on 22 November 2018 to include provisions about controls previously in clauses 6 and 7 of Part 2.

10 Health protection code of practice

- (1) The council may make, amend or revoke a code of practice about any services in clause 6.
- (2) Every code of practice adopted under (1) may specify —
- (a) minimum standards for the operation of those services, including (but not limited to):
 - (i) operator conduct, training and qualifications;

- (ii) premises construction, facilities and maintenance;
 - (iii) equipment, supplies and products used;
 - (iv) cleaning, sterilisation and disposal of waste products;
 - (v) customer age restrictions, consent and after care advice;
 - (vi) record keeping; and
- (b) recommended best practice for the operation of those services.

Related information to clause 10

Council made the Health and Hygiene Code of Practice 2013 by minute GB/2013/66 on 27 June 2013, in force on 1 July 2014.

Clause 10 amended by minute GB/YYYY/##, in force on 22 November 2018 to renumber it (previously clause 6) and make it easier to understand.

11 Procedure for making a code of practice

- (1) The council must, before making, amending or revoking a code of practice in clause 10 —
- (a) comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002.
 - (b) consult with —
 - (i) medical officers of health in the Auckland region; and
 - (ii) any affected operators;
 - (c) be satisfied that —
 - (i) the standards are the minimum necessary to ensure that the purpose of the Bylaw will be met; and
 - (ii) the recommendations for best practice (if any) are appropriate.
 - (d) have regard to —
 - (i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
 - (i) any other matters considered relevant by the council.
- (2) A code of practice made, amended or revoked under subclause (1) must be publicly notified.

Clause 11 amended by minute GB/YYYY/##, in force on 22 November 2018 to renumber it (previously clause 7) and to refer to renumbered clause 10 (previously clause 6).

12 Health protection licences

- (1) The Council may make controls and set fees for the following matters with respect to any licence required by clause 7 —
 - (a) applying for a licence, including forms and information;
 - (b) assessing an application for a licence, including inspection;
 - (c) granting or declining an application for a licence;
 - (d) the conditions that may be imposed on a licence;
 - (e) the duration of the licence;
 - (f) objecting about a decision to decline a licence, including the objection period;
 - (g) objecting about a condition of a licence, including the objection period;
 - (h) conducting inspections to ensure that a licence and its conditions are complied with;
 - (i) reviewing a licence or its conditions;
 - (k) refunding or waiving fees;
 - (l) suspending or cancelling a licence; and
 - (m) objecting about a decision to suspend or cancel a licence, including the objection period.
- (2) At the discretion of the council and having regard to any controls made under subclause (1), licences may be declined, or granted subject to any conditions.
- (3) If no controls are made about the duration of a licence under subclause (1)(e), a licence has a duration of 12 months from the date granted.
- (4) A licence is personal to the holder and is not transferable.

Clause 12 amended by minute GB/YYYY/##, in force on 22 November 2018 to renumber it (previously clause 11).

Part 4**Enforcement powers, offences, penalties****13 Compliance with the bylaw**

- (1) The council may use its powers under the [Local Government Act 2002](#) and the [Health Act 1956](#) to enforce this bylaw.
- (2) Without limiting subclause (1), any person authorised by the council to undertake inspections under this Bylaw may take or remove a sample or thing for analysis, for the purpose of determining whether or not this Bylaw is being complied with.

Related information

Local Government Act 2002 enforcement powers include: court injunction ([section 162](#)), seizure and disposal of property (sections [164](#), [165](#), [168](#)), powers of entry (sections [171](#), [172](#), [173](#)), and power to request name and address ([section 178](#)) (as reprinted on 1 July 2018).

Health Act 1956 enforcement powers include: court orders ([section 33](#)), cost recovery for council to abate nuisance ([section 34](#)), requiring the cleaning of premises ([section 41](#)), powers of entry ([section 128](#)), and power to request name and address ([section 134](#)) (as reprinted on 2 March 2018).

14 Bylaw breaches

- (1) A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the [Local Government Act 2002](#) or the [Health Act 1956](#).

Related information

A person who is convicted of an offence against a bylaw can be:

- fined a maximum of \$20,000 under the Local Government Act 2002 (section 242, as reprinted on 1 July 2018)
- fined a maximum of \$500 under the Health Act 1956 (section 66, as reprinted on 2 March 2016)
- where the offence is continuing, fined a maximum of \$50 every day the offence continues under the Health Act 1956 (section 66, as reprinted on 2 March 2016)
- where a person provides artificial tanning services to a person under 18, fined a maximum of \$2,000 for an individual or \$10,000 for a body corporate under the Health Act 1956 (section 114, as reprinted on 2 March 2018).

Part 4 amended by minute GB/YYYY/##, in force on 22 November 2018 to amend the Part and Clause headings and numbers (previously clauses 12 and 13). Hyperlinks and related information to clause 13 and clause 14 was also added.

Part 5**[repealed]**

Part 5 amended by minute GB/YYYY/##, in force on 22 November 2018 to repeal matters no longer required that were related to legacy bylaws revoked in 2013.

Related information, Bylaw history

Date	Description
01 November 2010	Made legacy bylaws about health and hygiene ¹ (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
01 November 2010	Commencement of legacy bylaws about health and hygiene (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
14 December 2012	Review of legacy bylaws about health and hygiene completed (RB/2012/33)
20 December 2012	Proposal to make new bylaw about health and hygiene and to revoke legacy bylaws (GB/2012/178)
27 June 2013	Made Auckland Council Health and Hygiene Bylaw 2013 and decided to revoke legacy bylaws (GB/2013/66)
27 September 2013	Public notice of new Auckland Council Health and Hygiene Bylaw 2013 and revocation of legacy bylaws
01 July 2014	Commencement of new Auckland Council Health and Hygiene Bylaw 2013 and revocation of legacy bylaws (GB/2013/66)
31 July 2014	Proposal to amend Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing (GB/2014/69)
30 October 2014	Made amendments to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing (GB/2014/120)
19 November 2014	Public notice of amendments to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists for ear piercing
01 November 2014	Commencement of amendment to Auckland Council Health and Hygiene Bylaw 2013 to exempt pharmacists (GB/2014/120)
10 May 2018	Review of Auckland Council Health and Hygiene Bylaw 2013 completed (REG/2018/36)
26 July 2018	Proposal to amend Auckland Council Health and Hygiene Bylaw 2013 (GB/2018/120)
22 November 2018	Made amendments to Auckland Council Health and Hygiene Bylaw 2013 ([insert])
	Public notice of amendments to Auckland Council Health and Hygiene Bylaw 2013
22 November 2018	Commencement of amendments (except to clause 7) of the Auckland Council Health and Hygiene Bylaw 2013 ([insert])
01 March 2019	Commencement of amendments to clause 7 of the Auckland Council Health and Hygiene Bylaw 2013 ([insert])

¹ Legacy bylaws made: Rodney District Council General Bylaw 1998 Chapter 10: Sanitation and Cleanliness of Buildings and Places of Public Resort; Rodney District Council General Bylaw 1998 Chapter 14: Brothels and Commercial Sex Premises; North Shore City Council Bylaw Part 16: Swimming, Health and Beauty Facilities; North Shore City Council Bylaw Part 11: Safe Piercing of Skin; Auckland City Council Bylaws 2008 05: Bathing, Health and Beauty Facilities; Auckland City Council Bylaws 2008 17: Skin Piercing; Auckland City Council Bylaws 2008 30: Brothels and Commercial Sex Premises; Waitakere City Council Sanitation and Hygiene in Commercial Premises Bylaw 2010; Manukau City Consolidated Bylaw 2008 Chapter 18: Tattooing, Beauty Therapy, Skin Penetration and Piercing; and Manukau City Consolidated Bylaw 2008 Chapter 3: Brothels.

