

Date: Thursday 15 April 2021
Time: 3.00pm
Meeting Room: St Chads Church and Community Centre
Venue: 38 St Johns Road
 Meadowbank

Ōrākei Local Board

OPEN MINUTE ITEM ATTACHMENTS

ITEM	TABLE OF CONTENTS	PAGE
19	Statement of proposal to amend the Animal Management Bylaw and controls	
	A. 15 April 2021 - Ōrākei Local Board - Item 19: Statement of proposal to amend the Animal Management Bylaw and controls, Board feedback	3
20	Proposal to make a new Public Trading and Events Bylaw	
	A. 15 April 2021 - Ōrākei Local Board - Item 20: Proposal to make a new Public Trading and Events Bylaw, Board feedback	5
21	Public feedback on proposal to make new navigation rules	
	A. 15 April 2021 - Ōrākei Local Board - Item 21: Public feedback on proposal to make new navigation rules, Board feedback	9
22	Draft Statement of Expectations for Council-controlled Organisations	
	A. 15 April 2021 - Ōrākei Local Board - Item 21: Draft Statement of Expectations for Council-controlled Organisations, Board feedback	11
23	Review of the Code of Conduct - draft revised code	
	A. 15 April 2021 - Ōrākei Local Board - Item 23: Review of Code of Conduct - draft revised code, Board feedback	13
9.2	Public Forum - Youth of Ōrākei	
	A. 15 April 2021 - Ōrākei Local Board - Item 9.2: Public Forum - Youth of Ōrākei, tabled document	17

Animal Management Bylaw and Control Feedback from the Ōrākei Local Board

The Board notes the proposal for the amendment of the Animal Management Bylaw and Controls

Background

According to Dr David Pattemore (Science Team Leader for Pollination & Apiculture) there are 66 Billion honeybees in NZ. Auckland is not in danger of facing diminishing Bee population, but there is recognition that bees in urban environment have a positive effect on plants in the immediate vicinity.

There is an increasing interest in and ownership of keeping bees and hives, and comments are therefore directed at the keeping of bees

OLB Submission

Board was disappointed that amendments and suggestions could not be made on the Dog Bylaw.

OLB specifically supports Attachment A (7 & 8) Bee Keeping in Urban Areas (Control One).

OLB supports the main thrust of the proposed bylaw with view to improvements of the definition of nuisance' and 'public' place.

Bee's should be limited to the local range of density of the residential population (that are covered in Items 7 & 8

Beehives that are kept on Council Property: ie parks and recreational areas should be registered. Ground rental charges should be also be applied.

Flight Paths of the Hives need be directed, and owners of the bees should be obligated to steer the bee flight path away from residents and property and where people congregate (schools, bus stops, etc).

Apiarists & amateur beekeepers need to be aware that Bee Poo is considered a nuisance, and therefore subject to any penalties of this Bylaw.

The Board suggests a minimum residential property size of 400 square metres be required for landowners to have a beehive and that apartment block, even those with common areas are not appropriate for beehives.

Support draft proposal in relation to density of bees per population: approval to keep more than one standard beehive on urban properties within the area specified.

The Board does not support differencing rules and regulations for the Munga and feel the same rules and regulations should apply across each of the board area.

15 April 2021

Item 19

Attachment A

ŌRĀKEI LOCAL BOARD – FEEDBACK – 15 APRIL 2021

TRADING AND EVENTS IN PUBLIC PLACES BYLAW REVIEW

In terms of the proposal to make a new Public Trading and Events bylaw 2022 and prior to the finalisation for public consultation – the Ōrākei Local Board (OLB) outlines initial views and feedback summarised as follows: -

Background

1. The OLB understands the draft proposal will continue to enable council to regulate trading activities, events, and filming to minimise risks to public safety, nuisance, and the misuse of council-controlled public places.
2. The main draft proposals are to:
 - continue to regulate trading, events, and filming in a similar way to the current Bylaw
 - set specific rules for rental micro mobility devices
 - identify filming in a separate category to events
 - merge trading activities such as busking and pavement art under street performance
 - update the Bylaw format, structure, definitions, the title, exemptions, approval conditions and other matters to make a new bylaw easier to understand and comply with.
3. Ōrākei Local Board area is a popular locality for events in Selwyn Reserve, Okahu Bay, St Heliers, and other suburbs.
4. The reserve areas have become iconic locations for filming, sporting events, community and generational activities and setting up commercial trading initiatives.
5. The commercial trading and other event activities are guided by the Trading and Events in Public Places Bylaw 2015. This bylaw as documented prescribes the provisions, approvals and administrative matters, trading and events categorisation and enforcement and penalties.
6. There are two processes:
 - (i) the regulatory event and trading permit process, which is a staff delegation from the Governing Body, and
 - (ii) the Board's non-regulatory authority as landowner under which the Board has decision-making but has delegated the final decision-making to staff.

Auckland Transport road reserves

7. Presently applications for event and trading permits on parks and reserves are processed and issued by Auckland Council and Auckland Unlimited. Commercial trading applications on road reserves are processed by Auckland Transport which also processes and approves event applications on roads and footpaths under its control.
8. Council's events team processes the applications on parks and reserves and seeks feedback from the Board, and where applicable landowner consent, before exercising its delegated authority to grant, with any conditions, or deny the application.
9. Auckland Transport does not inform the Board or seek feedback on applications on its road reserves. Screen Auckland does. To assist Council and Auckland Transport staff

when processing applications on certain parks and reserves the Board has produced with staff the Tamaki Drive Precinct Event Guidelines.

10. We request more prescription within the bylaw on Auckland Transport liaising with local boards prior to granting approval on its road reserves.

Council affirmation of local board recommendation

11. Local Boards as delegated landowner evaluate the diverse applications and requests to hold events and undertake trading activities on Council parks and reserves and other Council land and provided feedback to the staff who hold final decision-making.
12. At times the final Council decision-making is not clear and transparent how the decision was made and if and when the Local Board's recommendation to decline or approve was followed.
13. We request a clause within the by-law that acknowledgement of local board feedback is received; and final approvals/responses will be sent to the local board prior to being sent to the applicant.

Tamaki Drive Precinct Event Guidelines

14. We request reference in the by-law to compliance of the applicant to specific event guidelines, protocols and principles drafted for the local board area. An example in the Ōrākei Local Board area is the Tamaki Drive Precinct Event Guidelines.

Fee attribution to local boards

15. The proposed by-law makes no reference to the proposed fee structure and how council will collect requisite fees. In addition, these fees should also be attributed to the local board
16. the fee structure for use of Council reserves, parks, and other public places for events and commercial trading needs to be reassessed to provide for a processing fee and a (discretionary) rental or hireage fee on a user pays basis to local boards to assist with general upkeep of the reserves, parks and public places.
17. It is noted that there is already an agreed separate fee structure in place with Screen Auckland for filming on Council-owned property, and that part of the fee is paid to the local board for the purpose of assisting with general maintenance.
18. There should be consistency and equitable treatment of fee apportionment for trading, events and filming activity based on the usage of the landowner approved reserves and respective areas.

Clarity of interaction and responsibility of various council departments and council-controlled organisations (CCO's)

19. We understand the by-law is administered by several council departments and CCO's. This includes:
 - Licensing and Regulatory compliance unit
 - Regional Service Planning, Investment and Partnerships unit
 - Alcohol Licensing and Environmental Health unit
 - Auckland Unlimited
 - Screen Auckland
 - Community Facilities Land Advisory team (not actually listed in the by law proposal).

With the proposed by-law, it would be good to provide clarity how each unit proposes to interact with the local boards. In addition, where the terms of reference and

responsibility to provide understanding on how each application is treated. And where local board feedback is appropriately sought and provided.

20. Timeframes for delivery of feedback on applications are often quite tight. We are reliant on the above Council units and other support teams to gather other views from our wider community including resident and business associations.
21. As a pre-requisite to finalizing a decision on landowner approval or not – we would prefer the by law to provide the local board sufficient time to also engage with community stakeholders.

Types of mobile traders and fitness operations

22. Over the years, the local boards have noted a variety of different mobile traders making applications for trading licences. It would be good to have the by-law provide examples of the types of mobile traders that do need licences and where exemptions can be made.
23. The local boards need to have consistency with traders who will be granted licences under the revised by-law and where legacy traders operate – how enforceability processes will be put in place.
24. We note also with the increase in popularity in fitness operations such as 'boot camps' which are commercial operations – that some form of trading license may need to be brought into consideration.

Member David Wong

On behalf of the Ōrākei Local Board

15 April 2021

DRAFT 2021 AUCKLAND COUNCIL NAVIGATION SAFETY BYLAW
FEEDBACK FROM THE ŌRĀKEI LOCAL BOARD

The Ōrākei Local Board has viewed the feedback from the 20 submitters in its area and reiterates its previous feedback (OR/2020/110).

It notes:

Proposal 1: While 6 submitters supported the increase in speed within the Wāitemata Harbour zone from 12 knots to 18 knots, 5 supported maintaining the speed at 12 knots, and 4 supported reducing it to 10 knots or below. Although the feedback from its community is split, the Board believes that increasing the speed will see an increase in coastal erosion, damage to the foreshore and put marine mammals at risk.

Proposal 2: the Board does not support amending the rules to require the carrying of at least two independent means of communication on a marine vessel. While the proposal to require two independent means of communication on board a vessel was rejected by 75% of submitters in the Ōrākei Local Board area, the proposal was supported by 70% of Auckland-wide submitters.

Proposal 3: The Board supports the proposal to include rules for novel craft in the revised navigation bylaw, as this was supported by 80% of local submitters.

Proposal 4: The Board aligns with its submitters who showed support for creating new rules for both the Tamaki River Entrance and the Commercial Port Area

Proposal 5: The Board also supports the view of 70% of its submitters that the navigation rules on Ōrākei Basin should align with current accepted practices. It is noted that waterskiers largely comply with the rules at the Basin, but enforcement of the rules for other motorboat drivers should be monitored and enforced.

Proposal 6: 70% of Ōrākei submitters believed that rules about licencing commercial vessels for hire should be removed from the bylaw and addressed by other legislation. The Board agrees with this.

Proposal 7: The Board agrees that marine mammal protection rules should be removed from the bylaw and addressed by other legislation which aligns with the views of 65% of submitters from the Local Board area.

Proposal 8: The Board agrees with the 85% of submitters who supported clarifying rules in the bylaw to be more certain and updating the format to make the bylaw easier to read and understand.

The Board would also like to recommend, based on public feedback, that there is an increase in resources given to the Auckland Harbour Master (or relevant authorities) to enforce this Auckland Council Navigation Safety Bylaw and prosecute those that break it.

Ōrākei Local Board
15/4/2021.

**Feedback from the Ōrākei Local Board (OLB) on the draft
Statement of Expectations for Council Controlled Organisations (CCO's).**

The Ōrākei Local Board appreciates the opportunity to provide feedback on the draft statement of expectations.

The Board notes:

- that there are few examples around New Zealand of how this document should be created and used and how it should relate to governance practices, particularly between the Council and the CCO's;
- it is the intention of this Statement of Expectations is to specify how CEOs should undertake their business relationships; that this is a draft and that the Board will have further opportunity for input and that this document is *part of a suite of accountability tools*.
- that as part of the current long-term plan process the Accountability Policy has been revised to exclude many behavioral aspects expected of CCO's. These were previously included in that policy and that these aspects should now be included in the Statement of Expectations.

The Board comments:

1. That the Statement of Expectations and the Accountability Policy must always be considered alongside each other and that neither one should be reviewed without reference to the other.
2. The purpose of the Statement of Expectation is to ensure that strategic direction is clear and that the operational imperatives of CCO's are taken into account. Strategies must be deliverable and adequately funded.
3. It is imperative that the CCO's have a strong awareness of the public service ethos and recognize that organisations public ownership and obligations that this creates
4. It is imperative that CCOs make operational decisions that are aligned with the council's expectations and strategic directions.
5. The section of the Statement of Expectation that deals with relationship with local boards needs further work. CCO's are reminded that local boards make decisions on local activities and services and play an important role in representing local communities. To this end local boards are not stakeholders but an integral part of the council's governance system.
6. This Board feels this has not been adequately addressed in the Statement of Expectation and indeed considers that the governing body also needs to increase the engagement of local boards when considering how it directs and governs CCO'S.
7. Greater effort needs to be made to ensure that CCO's understand the role of local boards; both their role as local decision makers and their responsibility to identify and communicate the views and preferences of the communities in their local board areas.
8. We believe it is important that CCO's consult more fully with local boards in a genuine and early way that allows them to influence decisions that may affect the local board's governance role and the local community.
9. We also believe that a much more rigorous feedback loop needs to be established and maintained to ensure that local boards and communities are clearly informed about implications of decisions made, especially when consultation has been undertaken

10. The Board endorses the "no surprises principle" put forward in the Statement of Expectation.
11. It is our suggestion that a specific role should be assigned to a council staff member specializing in communications to ensure that CCO's have an easily accessible efficient communication pathway to local boards. The sole responsibility of this position would be to ensure a constantly clear conduit exists between CCO's and local boards. We believe this initiative will create consistency and better quality of communication "both ways" as local boards regularly have important information that affects the efficient running and delivery of CCO services
12. The Board also endorses and supports the expectation that CCO's will continue to improve their responsiveness to the community and in particular community concerns and complaints putting in place a measure to demonstrate how such responsiveness is improving overtime.

The Board has specific comment on "Balance"

1. It is important to acknowledge that a number of CCO's have objectives which relate to commercial purposes. The board also acknowledges that at times these may be in conflict with other objectives of a more public good nature and of particular concern and impact on communities small and large.
2. We agree that while commercial activity may be an important part of any CCO's activity and revenue it is fundamentally intended to be in the service of the public good, acknowledging the strategic goals of the governing body and the community as a whole.
3. The degree and delicacy of this balance will be different for different CCOs but each CCO board must ensure that it is clear about the choices it is making and the balance is striking and that this choice is clearly explained to the governing body, local boards and community (where appropriate).
4. The Ōrākei local board acknowledges that another important document in the suite of accountability mechanisms is the Statement of Intent. The balance and tradeoffs necessary between the Statement of Intent and the Statement of Expectations will be a constantly moving target and one which requires ever present monitoring, reporting and refinement.
5. Our Board does not believe that the current CCO constitutions and Statements of Intent are adequate and entirely fit for purpose in recognizing the dual roles of CCO's when considering community and financial imperatives. A revision of constitutions and Statements of Intent, we believe, is overdue and should form part of the preparation of the suite of accountability tools.
6. We accept that this is a tricky and delicate nexus and it is essential that CCO's not be given the opportunity to use the "community imperative" as an excuse for poor financial performance or less than excellent business practice.

Ends.

14th April 2021

DRAFT 2021 AUCKLAND COUNCIL CODE OF CONDUCT
FEEDBACK FROM THE ŌRĀKEI LOCAL BOARD

1. The Board notes while the draft Auckland Council Code of Conduct incorporates a number of changes it had informally submitted during the recent review of the draft document, it still has concerns about a number of principles and processes in the Code.
2. The Code with its attachments is a complex document of some 73 pages. Even with some additional clarification and cross-referencing it is still a complicated set of rules, with some jargon such as in clause 1.1, 6th bullet point, "co-operate with appropriate public scrutiny" (whatever that means). There could still be more cross-referencing such as in clause 1.1, 4th bullet point, referencing the test in the Conflict of Interest policy about pre-determination, without making the document cumbersome.
3. The Board does not support the requirement under Principles and in the Conflict of Interest policy for elected members to disclose all personal and outside interests, relationships and duties. In the Board's view there must be a nexus or rationale for the request. There is already a statutory duty for elected members to disclose at the appropriate time their fiduciary and other statutory conflicts of interest. There must be a legal basis for the request for this wide-ranging private and personal information. Seldom if ever has there been reference to the register at meetings. The rationale for this provision is not a legal one but stems from the Auditor-General's Guidelines on elected members managing financial conflicts of interest (Local Authorities (Members Interests) Act 1968). The Guidelines states:
"Although it is not a legal requirement, we encourage local authorities to establish a register of members' interests to support compliance with the Act and to ensure that relevant staff are aware of its contents. If your local authority has one, you should ensure that any business interests you or your spouse or partner have that might result in contracts with the local authority are recorded in the register. This helps ensure that you have been transparent about your interests, and that staff at the local authority who need to know can monitor contracts or contracting processes in which you might have an interest." (Guide para 2.60);
and,
"Local authorities should consider implementing systems that allow for identifying and assessing possible conflicts of interest early. These might include:
 - *maintaining a register of interests for members;*
 - *ensuring that members have early and timely access to agenda papers so they can identify and assess whether they have a financial interest in a particular matter that is to be discussed or voted on;*
 - *providing members with access to legal advice to help them assess whether they have a financial interest in a particular matter that needs to be addressed; and*
 - *ensuring that there is opportunity for members to advise the mayor or chairperson of a financial interest before the relevant meeting."* (Guide para 4.68)
(Emphasis added)If this requirement remains, the Board suggests that the following words be added to 1.1, 2nd bullet point, and in the Conflicts of Interest policy: "which might affect or impact on my impartiality as an elected member".
4. In section 4, clause 4.6 (last paragraph) the Investigator has the discretion to withhold a full copy of the complaint from the respondent. Normally the full complaint should be

provided. The Board understands that the wording in this clause is to provide for any exceptional circumstances where confidentiality or partial confidentiality, might be required. The Board considers that all information should be disclosed in the interest of an open and transparent process, notwithstanding the reasons stated in this clause.

5. In section 4, clauses 4.7 and 4.8, there is no reason why the footnote relating to both clauses should not be added to the last paragraph of each clause for clarity. Unless one looks at the small print footnote, the bald statement that the decision of the Investigator and the Conduct Commissioner is not open to challenge, could be construed as misleading. Of course, decisions made in a quasi-judicial manner are open to challenge as the footnote states.
6. In section 4, clause 4.9, the Conduct Commissioner "may" consult with the complaint, respondent and any affected parties, undertake a hearing and refer to relevant documents. This discretion is too wide and consideration should be given to changing "may" to "must". While the Conduct Commissioner may decide a complaint on the papers, without consultation, it is important that the process is seen as open and transparent and does not breach the principle of natural justice and the quasi-judicial role of the Commissioner.
7. While the Board understands the practicality of involving a senior staff member, other than the Chief Executive, to initially review a complaint, the Board is concerned that a Council employee could be given wide powers as an Investigator with regard to democratically elected members (clauses 4.6 and 4.7). The Board prefers that the staff member Investigator's role be as a conduit for referring complaints to an externally appointed person (as provided in clause 4.4) in line with the process for complaints lodged by the Chief Executive on behalf of staff, for consistency of practice.
8. Clause 4.11, last paragraph. Reference is made to breaches of clause 2.19 of the Conflict of Interest policy. The question of an alleged breach of any of the four points listed is a factual one to determine. Accordingly, the Board sees no need for the Chief Executive to refer the matter to an Investigator; it is a matter that the appropriate governing body or local board manager can report on. It is an unnecessary delegation.
9. Implementation of Election year policy (attachment C) needs to be treated with care. The purpose of the policy is guidance about the use of Council resources. Strict implementation by staff can and does restrict the activities of lawfully elected members in carrying out their duties for the full 3-year term, for which they were elected. It is important that elected members seeking re-election are not disadvantaged by the desire of the policy not to create an electoral advantage for the sitting member. Members are elected for a full 3-year term and should not have their wings clipped, such as prohibiting/curtailing content authored by elected members (policy 9.8); they need to do their job. The Board understands the policy is based on an out-of-date document from the Auditor-General which was withdrawn by the Auditor-General in 2019 and has not been re-issued. The Auditor-General's role relating to elections is to ensure correct use of public funds and resources and will investigate complaints about inappropriate use of Council resources. Such complaints can also be and should be dealt with under the Council's complaints process.

General

10. Election year policy (attachment C) The Board suggests that the definitions set out in clause 12 be more prominent and be an early clause in the policy document as is usual with legal and other documents which include definitions.

11. There needs to be consistency in terminology and titles such as using capitals between the base Code document and the attachment policies. It is one document and should be consistent.
12. There is a concern that whereas the legislation requires a code of conduct for elected members only, the legislation is silent on requiring non-elected co-optees, members of committees and working parties, and appointees made by the Independent Maori Statutory Board (IMSB) who are also decision-makers to comply with the Code of Conduct. The Board notes that the Code has an expectation of compliance with the trust and respect principles in the Code, as set out in the Application section of the Code. It is noted that the IMSB and advisory panels have their own codes of conduct. The Board suggests that for consistency with the requirements of the elected members, appointees be asked to voluntarily agree to abide by the Council's Code of Conduct before confirmation by the Governing Body of their appointments. It is recommended that the wording in Policy C (2.2) and Policy D (4.1) in the attachments be adapted for inclusion in the overarching code document under "Application":

The Independent Maori Statutory Board (IMSB) appointees and other appointees to Council committees and advisory panels are requested to note the relevant principles in this Code of Conduct and agree to apply them. CCO boards are requested to consider adopting a similar code of conduct.

Ōrākei Local Board
15 April 2021

Youth of Ōrākei: Long Term Plan Submission

March 2020

Regional Recommendations

Regional recommendations are based on discussion within the Youth of Ōrākei.

- We support the Auckland Council's budget proposal. Rates increases are necessary to ensure that Auckland can balance its budget whilst still investing in the essential community services used by all.
- However, we also support more targeted funding, focused on the communities and demographic groups currently underrepresented.
- We strongly support more significant action on climate change. This is the existential crisis of our times. Youth will be forced to live with the consequences of decisions made today. A failure to act on climate change will have the most acute impacts on our lives. The Auckland Council is proposing positive steps in this area, but we believe there should be consideration of even more aspirational goals and policies.
- We support a focused approach to infrastructure. Issues like housing and poverty can only be solved when we create neighbourhoods and communities with sufficient infrastructure. Proactively investing in parks, recreation spaces, and public transport is critical in addition to smart urban planning that preserves transport corridors. To tackle these issues, the Auckland Council should prioritise investment where growth occurs or where there are significant shortfalls in infrastructure.
- We support increased investment in community services. Auckland is an increasingly diverse city that reflects the many faces of modern Aotearoa. We need to ensure that our community services are available to meet the needs of all residents.

Local Recommendation

Local recommendations are based on the Youth of Orakei survey.

Should improving our community's ecology through working with community environmental groups be a priority for the Local Board?

97% of youth support prioritising environmental action in the community. This reflects extremely strong support for improving local reserves' ecological conditions like Waiatarua Reserve, Kepa Bush and Pourewa Valley.

How regularly do you use coastal reserves?

Young people somewhat regularly use the coastal reserves in the community.

What would encourage you to visit more local coastal reserves?

The most common things that would encourage young people to visit local coastal reserves are:

- Increasing the cleanliness of spaces
- Better preservation of environmental features
- Increased accessibility
- Events and other activations

How important to you are plans to improve water quality through better management of stormwater and wastewater?

Water quality is very important to youth. This issue had strong support among youth, with many respondents indicating this was one of the most important issues to them.

How interested would you be in participating in a community forum that improves engagement with local small businesses?

The survey showed that young people are very likely to engage in a community forum that would encourage purchasing products from small business. This indicates that youth support the community forum. The community forum is a suitable method of inclusivity in the community.

Do you support organising an awards event for local businesses in the Orakei Local Board area?

Young people somewhat support an award event for businesses in the Orakei Local Board area. This event would be an excellent way to recognise and support the contribution that local businesses make to the community. However, there was some opposition, indicating some youth felt that funding should be distributed elsewhere.

Do you support funding online webinars for local businesses?

76% of young people opposed funding online webinars. While the funding had good intentions, many young people felt it could be more effectively targeted towards groups impacted by Covid-19.

Do you support the introduction of new community safety measures in the bays?

57% of youth supported the introduction of new community safety features. There was particular support for the introduction of CCTV cameras in the St Heliers and Mission Bay area. However, there was some opposition as some youth suggested these measures should be used in areas that are currently less safe.

Do you support more public art in the community?

Youth strongly support the implementation of more public artwork in the community. Many felt artwork would brighten up the surrounding public facilities and give aspiring artists a chance to display their artwork in a public place.