

I hereby give notice that the public deliberation for a Special Consultative Procedure will be held on:

Date: Friday, 13 June 2025

Time: 10.00am

Meeting Room: Reception Lounge

Venue: Level 2, Auckland Town Hall

301 Queen Street, Auckland Central

# **DELIBERATION REPORT**

# CEMETERIES AND CREMATORIA BYLAW REVIEW

#### **PANEL MEMBERS**

Chairperson Cr Josephine Bartley Members Cr Alf Filipaina

**Houkura Member Glenn Wilcox** 

Julie McKee KAIWHAKAHAERE WHAKAWĀTANGA HEARINGS MANAGER

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# WHAT HAPPENS AT A SPECIAL CONSULTATIVE PROCEDURE PUBLIC DELIBERATION

At the start of the meeting, the Chairperson will introduce the panel members and council staff and will briefly outline the procedure.

The hearing panel have attended a series of Have Your Say events to hear from the public and have read the officers report and written submissions.

The hearing panel will now deliberate on what they have heard and read and will make a recommendation to the Governing Body.

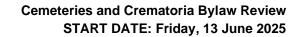


# SPECIAL CONSULTATIVE PROCEDURE – CEMETERIES AND CREMATORIA BYLAW REVIEW

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#### Reporting Officer, Olivia Zhang, Policy Analyst

Reporting on the Have Your Say events and written submissions on the proposed Cemeteries and Crematoria Bylaw Review.





## Deliberations on the proposed cemetery bylaw changes

## Te take mō te pūrongo Purpose of the report

To assist the Cemeteries and Crematoria Bylaw Panel deliberations on the public feedback on a <u>proposal</u> to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Bylaw 2014</u> and to revoke the Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria</u> Code of Practice 2014.

# Whakarāpopototanga matua Executive summary

- 2. To assist Panel deliberations on the public feedback to the proposal, staff have summarised the feedback and provided a structure for the deliberations (Attachment A).
- 3. The proposal seeks to improve council's administrative efficiency, and to better minimise public safety risks, cemetery misuse, obstruction, and damage to property, heritage and the environment through structural changes to the Bylaw and Code framework.
- 4. Council received responses from 34 people and organisations, and late feedback from one organisation after the close of public consultation on 23 February 2025. All feedback has been summarised into the following topics:
  - Proposal 1: Use a bylaw to set cemetery rules and to revoke the Code of Practice.
  - Proposal 2: Clarify when council approval is required (2A) and to clarify rules about adornments (2B), maintenance (2C), preparing a casket or shroud for burial and cremation (2D) and monument work and physical works (2E).
  - Proposal 3: Update the bylaw structure, definitions, and wording for clarity.
- 5. Staff recommend that the Panel accept the late feedback, consider all feedback received on the proposal and make the necessary recommendations to the Governing Body.
- 6. This approach will help complete the statutory process the council must follow. This includes considering with an open mind the views of people and organisations interested in the proposal before making a final decision.
- 7. There is a reputational risk that some people or organisations who provided feedback may not feel that their views are addressed. This risk can be mitigated by the Panel considering all public feedback in this report and providing reasons for its recommendations.
- 8. The final step in the statutory process is for the Governing Body to approve a Panel decision report that contains its recommendations. If approved, staff will publicly notify the decision and publish the updated Bylaw.

## Ngā tūtohunga Recommendation/s

That the Cemeteries and Crematoria Bylaw Panel:

- a) mihi / thank those persons and organisations who gave public feedback on the proposal to amend Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Bylaw 2014</u> and to revoke the Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Code of Practice 2014</u>.
- b) whakaae / accept and consider the late feedback from New Zealand Master Monumental Masons' Association (Inc) alongside all other public feedback received.

c) tono / request that through the Chief Executive to the manager responsible for bylaws to prepare a decision report to the Governing Body for approval of the Panel that gives effect to the Panel directions given at deliberations in response to this report.

### Horopaki Context

#### The Bylaw and Code help to manage council cemeteries and crematoria

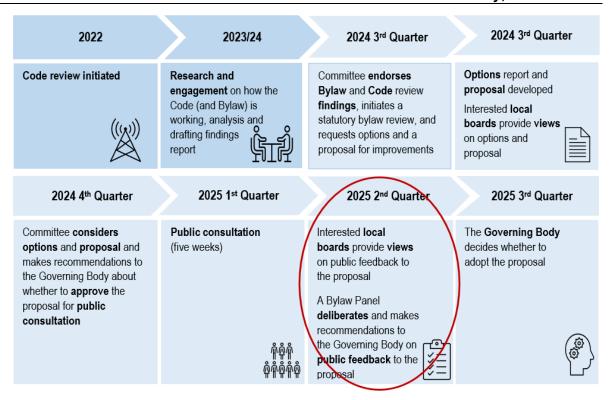
- To help manage council cemeteries and crematoria, council uses the Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Bylaw 2014</u> (Bylaw) and Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Code of Practice 2014</u> (Code).
- 10. The Bylaw and Code seek to minimise public safety risks, cemetery misuse, distress to families, obstruction, and damage to property, heritage and the environment at council cemeteries and crematoria (not for example, ash scattering in public places).
- 11. Council operates around 29 active (operational) and 26 inactive (no new plots for sale; no longer in regular use; function as local parks) <u>cemeteries</u>. This includes cemeteries with crematoria at Waikumete, Manukau Memorial Gardens and North Shore Memorial Park.
- 12. The Regulatory and Safety Committee has delegated authority to make, amend and revoke the Code, and council Cemetery Services staff (and Aotea Great Barrier Island Service Centre staff on the island) administer the Bylaw and Code. At Te Urupā o Waikumete at Waikumete Cemetery, the Waikumete Urupā Komiti (committee) has an advisory role in partnership with council.
- 13. The Bylaw and Code form part of a wider regulatory and strategic framework including the:
  - Burial and Cremation Act 1964 that enables council to provide cemetery services
  - Cremation Regulations 1973 that regulates cremations
  - Health (Burial) Regulations 1946 that regulates funeral directors, mortuaries, burials at sea, handling and transportation of dead bodies and approved disinfectants
  - Burial and Cremation (Removal of Monuments and Tablets) Regulation 1967 that provides for the removal of dilapidated or neglected monuments and tablets
  - Auckland Unitary Plan¹ that regulates activities at cemeteries to protect heritage², meet the needs of the community, maintain or enhance the local environment and amenity values and to protect conservation values and natural qualities of open space conservation zones (which include non-operational cemeteries).

#### The Governing Body has proposed amending the Bylaw and revoking the Code

- 14. On 12 December 2024, the Governing Body adopted a proposal to amend the Bylaw and revoke the Code for public consultation (GB/2024/182).
- 15. The proposal arose from a statutory review of the Bylaw and Code (see Figure below).
- 16. The proposal seeks to improve council's administrative efficiency, and to better minimise public safety risks, cemetery misuse, obstruction, and damage to property, heritage and the environment through structural changes to the Bylaw and Code framework.

<sup>&</sup>lt;sup>1</sup> D17 Historic Heritage Overlay; H7 Open Space Zones; H24 Special Purpose – Cemetery Zone, K Designations.

<sup>&</sup>lt;sup>2</sup> For example, the works that impact historic memorials or places in <u>Sch 14.1 Schedule of Historic Heritage</u> or with <u>designations</u>.



17. Main proposals in comparison to the current Bylaw and Code are outlined in this Table.

#### Main proposals

**Use a bylaw** to set cemetery rules in a way that allows cemetery staff to manage the daily operation of council cemeteries and crematoria, and to **revoke the Code of Practice**.

**Clarify rules** about when council approval is required and about adornments, maintenance, and preparing a casket for burial and cremation.

**Update** the bylaw structure, definitions, and wording for clarity.

#### Feedback on the proposal was received from 34 people and organisations

- 18. The proposal was publicly notified for feedback from 20 January until 23 February 2025. During that period, council received feedback from 31 individuals and three organisations across Auckland, including late feedback from one organisation (New Zealand Master Monumental Masons' Association (Inc)).
- 19. The AK Have Your Say' web page received 915 views.

#### Summary of public notification and feedback

#### **Public consultation initiatives**

- Notification in New Zealand Herald and local papers.<sup>3</sup>
- Articles on 'Our Auckland' on <u>3 December 2024</u>, <u>19 January 2025</u>.
- Email notification to external stakeholders (e.g. Funeral Directors)
- Email notification to mana whenua and mataawaka.
- Email notification to stakeholders involved during the Findings Review.
- Information on the <u>akhaveyoursay</u> website.

#### **Public feedback opportunities**

- In writing online, by email or post from 20 January to 23 February 2025.
- One 'Have Your Say' event on 24 February 2025.

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<sup>&</sup>lt;sup>3</sup> Franklin County News, Manukau and Papakura Courier, Central Leader, Eastern Bays Courier, North Shore Times, Rodney Times, Western Leader, The Times, Gulf News, Waiheke Weekender, Pohutukawa Coast Times.

- Ten in-person "Information Drop-in' sessions at libraries and one online session.4
- Verbally by phone.

#### **Public responses**

- Feedback received from 34 people and organisations (31 individuals and three organisations).
- Six people attended the 'Have Your Say Drop-in' events. Most provided verbal and written feedback.
- One organisation spoke at one the 'Have Your Say Stakeholder' event.
- 20. All public feedback received is summarised in Attachment D and a full copy provided in Attachment E. Both Attachments link to a council Have Your Say webpage where the documents can be viewed under the heading "Feedback Received".<sup>5</sup>

#### Cemeteries and Crematoria Bylaw Panel appointed to deliberate on public feedback

- 21. In December 2024, the Regulatory and Safety Committee appointed the Cemeteries and Crematoria Bylaw Panel to attend public consultation events, deliberate and make recommendations to the Governing Body on public feedback to the proposal (RSCCC/2024/82).6
- 22. The date, time and venue of deliberations have been published on council's 'AK Have Your Say' webpage. This enables the public to attend the deliberations to observe, noting there are no public speaking rights at deliberations after the close of the public feedback period.
- 23. When deliberating, the Panel must comply with regulatory requirements in the Local Government Act 2002. This includes:
  - giving all public feedback due consideration with an open mind
  - providing a clear record or description of the decisions.

# Tātaritanga me ngā tohutohu Analysis and advice

- 24. To assist the Panel in its deliberations, staff have summarised the public feedback into topics in Attachment A. This enables the Panel to deliberate and record its recommendations on each topic to meet the statutory requirements.
- 25. The majority of public feedback supported all three proposals.
- 26. The number of feedback responses in support and opposition to the proposals in the Table below provides a useful indication of the level of interest or concern about an issue.
- 27. However, this is only one consideration. The Panel must also consider the following.
  - The content and substance of the feedback. The arguments for a particular view can where it is considered appropriate, carry more weight than the number.
  - The key changes sought in feedback.

Topic	Auckland-wide feedback	
(Proposals P1 to P3)	Support	Opposition
P1 Use a bylaw to set cemetery rules and to revoke the Code of Practice	85 per cent	15 per cent
P2A Clarify when council approval is required	85 per cent	4 per cent
P2B Clarify rules about adornments	63 per cent	17 per cent
P2C Clarify rules about maintenance	86 per cent	4 per cent
P2D Clarify rules about preparing a casket or shroud for burial and cremation	96 per cent	0 percent
P2E Clarify rules about monument work and physical works	79 per cent	7 per cent

<sup>&</sup>lt;sup>4</sup> Sessions held at Remuera, Warkworth, Albany Village, Glenfield, Howick, Mt Roskill, Whangaparaoa, Pukekohe, Waiheke and Henderson libraries.

<sup>&</sup>lt;sup>5</sup> https://akhaveyoursay.aucklandcouncil.govt.nz/council-cemetery-bylaw.

<sup>&</sup>lt;sup>6</sup> Panel members: Councillor Bartley, Councillor Filipaina, Houkura Member Willcox.

Topic (Proposals P1 to P3)		Auckland-wide feedback	
		Support	Opposition
P3	Update the bylaw structure, definitions, and wording for clarity.	85 per cent	11 per cent

# Tauākī whakaaweawe āhuarangi Climate impact statement

- 28. The proposal does not directly address the climate change goals in <u>Te Tāruke-ā-Tāwhiri:</u>
  <u>Auckland's Climate Plan</u>. For example, the proposal focuses on ensuring that memorials do not cause safety risks and adornments do not obstruct maintenance, rather than regulating the climate impact of common practices.
- 29. There are no implications for climate change arising from decisions sought in this report.

# Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

- 30. The proposed changes impact the Cemetery Services and the Aotea Great Barrier Island service centre which provide council cemetery services.
- 31. Relevant staff input was sought to inform the statutory bylaw review, options and proposal, and staff are aware of the impacts of the changes and their implementation role.

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

- 32. Based on the agreed principles and processes in the Local Board Involvement in Regional Policy, Plans and Bylaws 2019, views from interested local boards were sought on draft options and proposal.
- 33. In March 2025, interested local boards had an opportunity to provide formal views by resolution on how the Panel should address matters raised in public feedback. Local boards also had the opportunity to present their views to the Panel on 23 May 2025.
- 34. Eight local boards provided their views by resolution, two local boards requested to present their views to the Panel, prior to the deliberations.
- 35. Local board views are summarised in Attachment A and contained in Attachment F.

## Tauākī whakaaweawe Māori Māori impact statement

- 36. The proposal supports whanaungatanga, rangatiratanga, manaakitanga and kaitiakitanga in Houkura / the Independent Māori Statutory Board's <u>Māori Plan for Tāmaki Makaurau</u> and the <u>Schedule of Issues of Significance</u> by providing regulation that supports council services to meet social, cultural and physical needs, and supports the role of the Waikumete Urupā Komiti (Komiti) at Te Urupā o Waikumete (Waikumete Cemetery).<sup>7</sup>
- 37. Mana whenua and mataawaka were notified of the proposal and given the opportunity to provide feedback through face-to-face meetings, in writing, online and in-person.
- 38. Six per cent (two) of the total responders identified as Māori.
- 39. Both supported the proposal to amend the Bylaw, remove the Code, update the Bylaw structure, definitions and wording and to clarify rules about when council approval is required and about adornments, maintenance, and preparing a casket for burial and cremation.

<sup>7</sup> Committee has an advisory role for Te Urupā o Waikumete in partnership with council.

- 40. One disagreed with clarifying the rules about monument and physical works, noting that other cultures may disagree with what is a culturally acceptable New Zealand monument and suggested that a maximum size be placed on monuments to ensure compliance.
- 41. Both commented on the adornments. One about the mess associated with plastic adornments, and the other about what are suitable materials to hold flowers.

### Ngā ritenga ā-pūtea Financial implications

42. There are no financial implications arising from decisions sought in this report. The costs associated with implementation will be met within existing budgets.

# Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

43. The following risk has been identified in this Table.

If	Then	Mitigation
Some people or organisations feel their feedback was not considered or addressed	There may be a reputational risk of negative public perception about the decision-making process.	The Bylaw Panel ensures it considers all public feedback contained in this report and records its decisions (with reasons).

# Ngā koringa ā-muri Next steps

- 44. Staff will prepare a decision report from the Panel to the Governing Body that gives effect to Panel directions on public feedback from its deliberations meeting. The report will be circulated to the Panel for approval.
- 45. The final step in the statutory process is for the Governing Body to approve recommendations from the Panel in the decision report. If approved, council staff will publicly notify the decision and publish the Bylaw.

#### Ngā tāpirihanga Attachments

No.	Title	Page
Α	Deliberations table	
В	Statement of Proposal [click link]	
С	Decision-making criteria	
D	Summary of public feedback [click link]	
E	Online and written feedback [click link]	
F	Local Board views on public feedback	

## Ngā kaihaina

## **Signatories**

Authors	Olivia Zhang Policy Analyst
Authorisers	Paul Wilson Senior Policy Manager

# ATTACHMENT A DELIBERATIONS TABLE

#### **Attachment A – Deliberations Table**

This attachment provides a structure for deliberations. It contains a summary of public feedback on the proposal and local board views, information to assist deliberations and a structure for recording recommendations.

#### The Bylaw Panel:

- can view all public feedback and local board views in Attachments E to F
- must receive the views in public feedback with open mind and give those views due consideration
- must comply with the decision-making criteria under Subpart 1 of Part 6 of the Local Government Act 2002.

#### Notes:

- Feedback is summarised in the topic it best relates too (which may differ from the topic it may have been submitted under).
- The number of comments for key themes may not equal the total number of comments stated for the proposal because they include general comments or exclude operational and non-bylaw related matters or reflect that some comments may reflect more than one theme.
- Percentages for feedback responses may not equal 100 per cent because responses other than support or oppose are excluded.
- Staff comments about things the Panel could consider highlight key points for deliberation identified by staff and do not limit the Panel's consideration and deliberation on any matters raised in public feedback or local board views.
- Public feedback about operational and non-bylaw related matters is summarised in Attachment A and will be referred to other Auckland Council departments and other council-controlled organisations where relevant.
- The comments under key themes (the hollow bullet points) are intended to provide some context to the theme of what submitters have said.
   They are not intended to represent all of the submitter's comments.
- The numbers, themes and relief sought may differ from the summary of feedback in Attachment D. This reflects the purpose of the summary to provide 'quick' insights after the close of public feedback and this Attachment which reflects a more 'in-depth' analysis of public feedback

#### Public feedback on Proposal 1 - Themes

Amend the bylaw and remove the code

26 feedback responses: 22 support (85 per cent), 1 oppose (4 per cent), and 9 comments.

#### **Key themes in support (7)**

 Majority of people who provided written feedback agree that removing the code would be more efficient and provide clarity.

#### **Key themes opposed (0)**

No written feedback received.

#### Local board views (2)

• Māngere-Ōtāhuhu and Whau Local Boards agree with feedback in support of the proposal.

### Staff comment (information to assist deliberations)

#### **Proposal**

 To use a bylaw to set cemetery rules in a way that allows cemetery staff to manage the daily operation of council cemeteries and crematoria, and to revoke the Code of Practice.

#### Reasons

- To simplify the regulatory framework and improve the current approach to the management of council cemeteries and crematoria. For example, to:
  - clarify more transparently in a bylaw when council approval is required and how council makes decisions.
  - o remove duplication in the Code with agreements, monument size guidelines, and information on council's website.

#### Public feedback on Proposal 2A - Themes

#### Clarify when council approval is required

27 feedback responses: **23 support (85 per cent)**, 4 oppose (15 per cent), and 11 comments.

#### **Key themes in support (8)**

• Majority of people who provided written feedback said clarifying and streamlining the process is beneficial.

#### Key themes opposed (3)

• Two people who provided feedback said the proposal is restrictive of people's ability to conduct activities around ground maintenance.

#### Local board views (1)

 M\u00e4ngere-\u00fbt\u00e4huhu local board support the move to a more flexible and user-friendly framework that clearly identifies when council approval is needed, including for headstone design (e.g., gang insignia), disinterment.

## Staff comment (information to assist deliberations)

#### **Proposal**

- To clarify that approval is required for burial, cremation, monuments, vaults, mausolea, ash scattering, disinterment, and vegetation at council cemeteries and crematoria. For example, to install, modify, or remove a headstone.
- To include an 'approval framework' that clarifies that: applications must be made in a way required by council (for example, in form and manner)
  - o council considers applications against relevant matters
  - o applications can be granted or declined
  - o council can set conditions for approvals granted.

#### Reasons

- Better reflect current operational practice and be easier to understand and comply with.
- For example, to clarify that council approval is required for burial, cremation, monuments, vaults, mausolea, ash scattering and disinterment.

Public feedback on Proposal 2B – Themes	Staff comment (information to assist deliberations)	
Clarify rules about adornments  30 feedback responses: 19 support (63 per cent), 5 oppose (17 per cent), and 21 comments.  Key themes in support (11)  Some agree that the proposed changes are beneficial and fair.  Two agree that potential hazardous adornments should not be allowed.  One agrees adornments should not cause litter or environmental damage.  Key themes opposed (4)  Majority of people who commented opposes the limitations on adornments and the 28 days limitations for adornments.  Local board views (3)	Proposal To clarify that adornments:  may be placed on a plot for up to 28 days following a burial in that plot, or on a concrete berm at the plot at any time. Exceptions apply if council has given prior approval, and for decorated areas established by the former legacy Auckland councils (areas that allow permanent adornments on plots. This is no longer council's approach.)  must not inhibit maintenance or operational activities (for example, lawn mowing or other burials)  must not interfere with an accessible path of travel for cemetery users  must not include breakable materials (for example, glass or ceramic vases)  must not include materials that may cause litter or damage to the environment  must not include railing or fencing  are only limited in number by the space available on the plot or the concrete berm.  Reasons	
Papakura Local Board believes that people should be able to have adornments on grave sites and agree with the measures of control for adornments.	<ul> <li>Better reflect current operational practice and be easier to understand and comply with.</li> <li>For example, to clarify that adornments must be relocated from the plot to the concrete berm 28 (not 14) days after burial.</li> </ul>	

Public feedback on Proposal 2C – Themes	Staff comment
Clarify rules about maintenance	Proposal
28 feedback responses: 24 support (86 per cent), 1 oppose (4 per cent), and 10 comments.	To clarify the responsibility of the plot owner to
<ul> <li>Key themes in support (8)</li> <li>Majority of people who provided written feedback agree with intent of the proposal.</li> <li>Some people were concerned about who holds the responsibility of maintenance of the plot in perpetuity if there is no holder of the Exclusive Right of Burial or successors.</li> </ul>	maintain any monument, vault, or mausoleum associated with the plot. Reasons
<ul> <li>Key themes opposed (0)</li> <li>No written feedback received.</li> <li>Local board views (1)</li> </ul>	Better reflect current operational practice and be easier to understand and comply with.
Waitākere Ranges Local Board supports proposal to ensure a high standard of maintenance of the cemetery and protect its value.	

Public feedback on Proposal 2D – Themes	Staff comment (information to assist deliberations)
Clarify rules about preparing a casket or shroud for burial and cremation	Proposal
28 feedback responses: <b>26 support (96 per cent),</b> 0 oppose (0 per cent), and 7 comments.	To clarify the responsibilities of a person who prepares a casket or shroud for burial or cremation
<ul> <li>Key themes in support (7)</li> <li>Majority of people who provided written feedback agree that the proposal is sensible and minimises safety risks.</li> </ul>	(for example, a funeral director on behalf of the family).  Reasons
Key themes opposed (0)  No written feedback received.	Better reflect current operational practice and be easier to understand and comply with.

Public feedback on Proposal 2E – Themes	Staff comment (information to assist deliberations)
Clarify rules about monument work and physical work	Proposal
28 feedback responses: 22 support (79 per cent), 2 oppose (7 per cent), and 8 comments.	To clarify the responsibilities of a person who installs, modifies, or removes a monument, or does
<ul> <li>Key themes in support (5)</li> <li>Majority of people who provided written feedback agree with the intent of the proposal as it would simplify and clarify the rules.</li> </ul>	physical works.  Reasons  Better reflect current operational practice and be easier to understand and comply with.
<ul> <li>Key themes opposed (1)</li> <li>One person who opposed the proposal who provided written feedback said that monument work should be culturally inclusive and not restrictive.</li> </ul>	
Local board views (0)  No local boards provided written feedback for this proposal.	

<b>Public</b>	feedback	on Propos	al 3 – 1	Themes
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Update the bylaw structure, definitions and wording for clarity

27 feedback responses: 23 support (85 per cent), 0 oppose (0 per cent), and 9 comments.

#### Key themes in support (6)

 Some people who provided written feedback support simplifying the wording and agree that it would be beneficial.

#### **Key themes opposed (0)**

No written feedback received.

#### Local board views (0)

No local boards provided written feedback for this proposal.

#### Staff comment (information to assist deliberations)

#### **Proposal**

- To update related information notes and link to further information on the council website
- To move administrative clauses to the end of the bylaw, about the bylaw title, commencement, application, purpose, and interpretation (Part 5)
- To remove repetition, duplication of legislation, and internal operational matters, for example about the exclusive right of burial; enforcement powers to remove and repair monuments and remove adornments; record-keeping; and cutting and removing vegetation
- To make minor wording clarifications, including to update the bylaw purpose to reflect the objectives identified in the bylaw review (clause 22); update the bylaw application to align with wording in legislation about council controlled or managed cemeteries (clause 21); and update references to making and complying with a control not a code (clauses 4 and 10)
- To move references to Wāhi Tapu Māori Komiti to the related information note under the definition of council, to reflect that Komiti are a delegated authority (clause 23)
- To clarify definitions, and remove definitions of terms that are not in the bylaw or are in legislation (clause 23)
- To enable decisions under the bylaw and code prior to amendments to continue (Part 4). To clarify the responsibilities of a person who installs, modifies, or removes a monument, or does physical works.
- To update the bylaw structure, definitions, and wording for clarity.

#### Reasons

- Reflects current operational practice.
- Easier to understand and comply with.
- Aligns with best practice drafting standards, for example removes repetition, duplication of legislation, and internal operational matters.

Public feedback on all proposals - Key changes sought	Staff comment (information to assist deliberations)	Panel recommendation
Proposal 1: Amend the bylaw and remove the code  Adopt proposal as publicly notified (22 responses).  Proposal 2A: Clarify when council approval is required  Adopt proposal as publicly notified (23 responses).  Retain the approach in the current Bylaw and Code (4 responses).  Proposal 2B: Clarify rules about adornments  Adopt proposal as publicly notified (30 responses).  Clarify definition of a lawn cemetery. Waiheke Local Board comment that Onetangi cemetery does not fit the definition of a lawn cemetery. It is a community cemetery which reflects the idiosyncratic	About the Panel decision-making criteria:  In general, the most relevant criteria in Appendix C focus on determining whether a bylaw is the most appropriate way to address the problem, is the most appropriate form of bylaw and does not raise any implications under the New Zealand Bill of Rights Act 1990.  In the context of this proposal and the key changes sought, this includes for example:  considering whether the proposed approach is a more appropriate way to address problems related to the use of council cemeteries and crematoria	That the proposal to amend the bylaw and remove the code about cemeteries and crematoria in Auckland  Either [Panel to decide] be adopted as publicly notified.  OR be amended to:  [Panel to insert]
nature of the community and threatened by the definition.  Proposal 2C: Clarify rules about maintenance  • Adopt proposal as publicly notified (24 responses).  Proposal 2D: Clarify rules about preparing a casket or shroud for burial and cremation  • Adopt proposal as publicly notified (26 responses).  • Clarify prohibited materials in terms of what level of harm and items are prohibited in a casket or shroud for burial (1 response).	<ul> <li>considering whether the proposed changes make the bylaw easier to understand in a way that is reasonable and transparent.</li> <li>About 'clarify prohibited materials' feedback:</li> <li>This information is included on council's website and includes for example ammunition or explosive material (like batteries, electronic devices/mobile phones, pacemakers, guns and bullets) that may cause damage to cremators or a safety risk.</li> </ul>	move matters in Part 5 of the proposal to the front of the document and make other editorial drafting changes where possible.  OR
Proposal 2E: Clarify rules about monument work and physical work  Adopt proposal as publicly notified (22 responses).  Proposal 3: Update the bylaw structure, definitions and wording for clarity  Adopt proposal as publicly notified (23 responses).	About 'bylaw structure' staff recommendation: <ul> <li>While having general administrative matters in Part 5 may be easier for the public to read the bylaw, the reader is more likely to be council staff, industry and related experts and this structure is contrary to conventional drafting (including Parliamentary Counsel Office guidance of June 2025).</li> <li>Staff recommend the bylaw be restructured to better align with current bylaw drafting best practice.</li> </ul>	be rejected and the proposal amended to [Panel to insert].  AND  Reasons include to:  [Panel to insert]  better align with
For proposals with no specific changes sought but at least one person opposed, the Panel could consider that the key change sought is to retain current rules (1 to 5 responses).		current bylaw drafting best practice.

# Other matters raised

Other matters	Staff comment (information to assist deliberations)	Panel recommendation
Operational and non-cemetery and crematoria policy and bylaw related feedback The Panel could, if it wishes, deliberate on any of the matters raised Attachments C to F in relation to the following requests.  Key comments (enforcement)  • more enforcement for rules around adornments, alcohol consumption, and driving on cemetery grounds (5 responses).  Key comments (removal of adornments)  • to provide help to whānau to remove adornments and manage materials like plastic flowers and crosses (Māngere-Ōtāhuhu Local Board).  Key comments (cultural inclusivity)  • for public consultations to take into account that communities grief in diverse manners and there should be wide public consultation for rules around adornments (Ōtara-Papatoetoe Local Board)  • monument work should be culturally inclusive and not restrictive (1 response).  Key comments (contact system)  • to set up and provide a contact system for future generations to take responsibility for the condition of the plot (1 response).  Key comments (clarify prohibited materials for cremation)  • require caskets for interment in mausoleums to be hermetically sealed; bodies prepared in line with any exclusive right of burial agreements; emphasise compliance with all council controls or conditions relating to interment or cremation (Māngere-Ōtāhuhu Local Board).  Key comments (consult with local iwi)  • Request for consultation with iwi on any rule changes (1 response).	<ul> <li>About 'enforcement' feedback:</li> <li>Regulation of driving and alcohol are already addressed in other bylaws about traffic and alcohol bans.</li> <li>About the consultation with local iwi:</li> <li>Staff sought early feedback on the current bylaw and code from Waikumete Urupā Komiti (Komiti) at Te Urupā o Waikumete (Waikumete Cemetery), 19 mana whenua groups, and nine mataawaka marae and other groups.</li> <li>Feedback reported to the Regulatory and Safety Committee on 3 December 2024 highlighted concerns with burial capacity and costs, waste associated with adornments, climate change impacts at urupā and council cemeteries and the role of the Komiti. The proposal addressed this feedback by clarifying current practice that adornments must not include materials that may cause litter or damage to the environment. Other matters are operational and may be addressed as internal matters.</li> <li>Mana whenua were also notified of the proposal but did not provide further feedback.</li> </ul>	Either [Panel to decide] That matters related to operational or non-cemetery and crematoria policy and bylaw related feedback in Attachments C to F be referred to relevant council areas for consideration.  OR That in relation to the operational or non-cemeteries and crematoria policy and bylaw related feedback contained in Attachments C to F:  [Panel to insert recommendation] any matters not referred to above be referred to relevant council areas for consideration.

Other matters	Staff comment (information to assist deliberations)	Panel recommendation
Additional matters raised by Panel members  Comment (any other matters)  The Panel should deliberate on any matters contained in public feedback in Attachments C to F it considers has not been adequately addressed in this Attachment A.	About 'any other matters'     This is an opportunity for the Panel to raise and deliberate on any matter contained in public feedback in Attachments C to F it considers have not been adequately addressed in this Attachment A.	Either [Panel to decide] That all matters in public feedback have been given adequate consideration.  OR That in relation to the matters in public feedback the Panel:  [Panel to insert decisions, suggestions, notes].

# **ATTACHMENT B**

# STATEMENT OF PROPOSAL

This attachment has not been reproduced but can be <u>found here</u>

# ATTACHMENT C DECISION-MAKING CRITERIA

# Attachment C – Regulatory criteria related to Cemeteries and Crematoria Bylaw

A Panel decision to make recommendations on proposed changes the Cemeteries and Crematoria Bylaw must meet regulatory criteria in relevant legislation.

The Tables below summarise key regulatory criteria.

# Summary of Local Government Act 2002 and Local Government Official Information and Meetings Act 1987 criteria for decisions

- 82(1) Principles of consultation:
  - (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:
  - (f) that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.
- Section 47 LGOIMA: meetings generally open to the public
- Section 46 LGOIMA: meetings to be publicly notified (section 2 of LGA and LGOIMA define publicly notified).

#### Summary of Local Government Act 2002 criteria for changes to Bylaw

- Section 155 Determination whether bylaw made under this Act is appropriate
  - (1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.
  - (2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—
    - (a) is the most appropriate form of bylaw; and
    - (b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.
  - (3) No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.

# **ATTACHMENT D**

# **SUMMARY OF PUBLIC FEEDBACK**

This attachment has not been reproduced but can be <u>found here</u>

# **ATTACHMENT E**

# **ONLINE AND WRITTEN FEEDBACK**

This attachment has not been reproduced but can be <u>found here</u>

# ATTACHMENT F LOCAL BOARD VIEWS ON PUBLIC FEEDBACK

#### Attachment F - Local Board Views

This attachment contains local board views resolved at their meetings in April 2025 on the public feedback to the proposed changes to Auckland Council's Cemeteries and Crematoria Bylaw 2014.

#### **Local Boards Views**

#### FR/2025/66 - That the **Franklin Local Board**:

- a) tūtohi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.
- b) whakahē / decline to appoint one or more local board members to present the views in (b) to the Governing Body Cemeteries and Crematoria Bylaw Panel.

#### MO/2025/1 – That the **Mangere-Otahuhu Local Board**:

- a) tūtohi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.
- b) whakarato / provide its views on how the Governing Body Dog Policy and Bylaw Panel should address public feedback to the proposal in (a) to assist the Panel in its deliberations as follows;
  - i. thank the submitters from the Mangere-Ōtahuhu Local Board area for taking the time to share their views and contribute to the review.
  - ii. reaffirm the Māngere-Ōtāhuhu Local Board's earlier feedback (Resolution number MO/2024/158), particularly the need for culturally appropriate engagement, use of translated materials, and targeted education to support implementation in our diverse communities.
  - iii. Simplification and Clarity
    - A) Support the use of a single bylaw to replace the existing bylaw and code, and request that operational rules be presented clearly in plain language and in relevant community languages to avoid confusion.
  - iv. Approval Framework and Processes
    - A) Support the move to a more flexible and user-friendly framework that clearly identifies when council approval is needed, including for headstone design (e.g., gang insignia), disinterment attendance, and other sensitive matters.
  - v. Environmental and Access Concerns
    - A) Recommend that Council consider options to help whānau remove adornments and manage materials like plastic flowers and crosses, which may create access and environmental issues.
  - vi. Heritage and Community Engagement
    - A) Support the respectful preservation of heritage graves and recommend further consultation with key cemetery users such as funeral directors, churches, and community groups to ensure the bylaw reflects operational realities and community needs.
  - vii. Safety and Compliance for Caskets and Shrouds
    - A) Ensure that a casket or shroud for cremation does not contain materials that could damage the cremator or pose a safety risk.
    - B) Require caskets for interment in mausoleums to be hermetically sealed, and bodies prepared in line with any exclusive right of burial agreements.
    - C) Emphasise compliance with all council controls or conditions relating to interment or cremation.

#### OP/2025/59 - That the Ōtara-Papatoetoe Local Board:

a) tūtohi / receive the limited public feedback from two submitters in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu

#### **Local Boards Views**

- Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.
- b) tono / request that in any further consultations staff recognise our communities express grieving in different and colourful ways and consult widely with our people on any rules be made around adornments etc.
- c) does not want to appoint a member to present views to the Governing Body on proposed changes to cemetery bylaw.

#### PPK/2025/63 – That the **Papakura Local Board**:

- a) tūtohi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.
- b) whakarato / provide its views on how the Governing Body Dog Policy and Bylaw Panel should address public feedback to the proposal in (a) to assist the Panel in its deliberations as follows;
  - the board believes people should be able to have adornments on grave sites and agree there should be some control for adornments, such as:
    - A) ensuring adornments are well secured and won't blow away in the wind
    - B) allowing for easy maintenance
    - C) not transgressing another site
  - ii. requirements should be clearly outlined to families so they are aware
  - ii. people should not be able to drive up to and drink at a grave site.

#### UH/2025/48 - That the **Upper-Harbour Local Board**:

a) whiwhi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.

#### WHK/2025/39 - That the Waiheke Local Board:

- a) whiwhi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Bylaw 2014 (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | Cemeteries and Crematoria Code of Practice 2014 (Code) in the agenda report.
- b) tuhi tīpoka / note that Waiheke's Onetangi cemetery does not fit the definition of a lawn cemetery as defined, it is a community cemetery which reflects the idiosyncratic nature of our community, and is threatened by the definitions of lawn cemetery under the existing bylaw; and propose that community cemeteries be defined under the bylaw and excluded from regulations that undermine their character.
- c) whakatuu / appoint the Chair and/or her delegate to present the views in (b) to the Governing Body Cemeteries and Crematoria Bylaw Panel.

#### WTK/2025/47 - That the Waitākere Ranges Local Board:

- a) tūtohi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <a href="Cemeteries and Crematoria Bylaw 2014">Cemeteries and Crematoria Bylaw 2014</a> (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <a href="Cemeteries and Crematoria Code of Practice 2014">Cemeteries and Crematoria Code of Practice 2014</a> (Code) in the agenda report.
- b) whakarite / provide the following feedback on the draft changes to the Cemetery Bylaw and Code of Practice outlined in the Statement of Proposal:
  - i. tuhi ā-taipitopito / note that Waikumete Cemetery within the Waitakere Ranges local board area is a valued cultural landscape with significant historic, ecological and recreational values.

#### **Local Boards Views**

- ii. tautoko / support the intent of the draft Statement of Proposal to ensure a high standard of maintenance of the cemetery and protect its values.
- iii. tuhi ā-taipitopito / note the following concern:
  - A) the proposal as stated risks being heavy handed. It needs to enable culturally diverse practices in commemorating the dead.
  - B) there needs to be ongoing education, engagement and communication tailored to different communities so the requirements of the bylaw are understood. It otherwise risks being an affront to those grieving and remembering their loved ones.
- c) whakatuu / appoint Member L Potauaine and Chairperson G Presland to present the views in (b) to the Governing Body Cemeteries and Crematoria Bylaw Panel.
- d) tuku mana / delegate authority to the local board chair to appoint a replacement to any appointed member in (c) who is unable to present to the Panel.

#### WH/2025/49 - That the Whau Local Board:

- a) tūtohi / receive the public feedback from people in the local board area to the Governing Body proposal to amend the Auckland Council Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Bylaw 2014</u> (Bylaw) and to revoke Arataki Tikanga mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku | <u>Cemeteries and Crematoria Code of Practice 2014</u> (Code) in the agenda report.
- b) tautoko / support the proposed amendments to the bylaw, and to revoke the Code of Practice.
- c) whakatuu / appoint Member S Paterson-Hamlin to present the views in (b) to the Governing Body Cemeteries and Crematoria Bylaw Panel.
- d) tuku mana / delegate authority to the local board chair to appoint a replacement to Member S Paterson-Hamlin who is unable to present to the Panel.