

# Auckland Bylaw Standard

July 2012



AMENDMENTS				
No	Description	Date Made	Decision Maker	Commencement
n/a	Standard first adopted. Minute No. RB/2012/9	22 May 2012	Regulatory and Bylaws Committee	22 May 2012
1	Editorial amendments, amend commentary to Standard 6, amend Standard 12	20 Jul 2012	Manager Policies and Bylaws in consultation with the Chair of the Regulatory and Bylaws Committee	20 Jul 2012

## FOREWORD

Recent structural changes to local government in Auckland have created new challenges and expectations in relation to bylaws that the traditional approaches to bylaw development fail to adequately meet. Traditional approaches to bylaw development included bylaw parts relying on a general administration bylaw or of a series of independent standalone bylaws.

The Auckland Council and Auckland Transport have determined that the best way to meet the new challenges and expectations in relation to bylaws is to develop a bylaw standard, and to develop new standalone bylaws consistent with that standard.

I recommend the Auckland Bylaw Standard to all concerned as a positive step towards consistent quality bylaws for Auckland.

Councillor Des Morrison  
Chairperson Regulatory and Bylaws Committee  
Auckland Council

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# 1.0 INTRODUCTION

The Local Government (Auckland Council) Act 2009, Local Government (Tamaki Makaurau Reorganisation) Act 2009 and Local Government (Auckland Transitional Provisions) Act 2010 introduced new local government arrangements in Auckland that create new challenges and expectations in relation to bylaws, including:

- (1) Ensuring consistency across two independent bylaw-making authorities (the governing bodies of the Auckland Council and Auckland Transport) and at least 22 bylaw-proposing authorities (21 Local boards and any Auckland water organisations).
- (2) Ensuring that regulation by bylaw is the appropriate mechanism to address a problem.
- (3) Ensuring that every bylaw relates to an identifiable community outcome that is reflected in council strategies or policies.
- (4) Ensuring that bylaws are clearly linked to other relevant documents such as the District Plan or other relevant bylaws.
- (5) Ensuring consistency of bylaw format, style and language.
- (6) Ensuring that local boards are involved in the bylaw-making process.
- (7) Establishing a region-wide framework within which controls can be made by delegation.
- (8) Ensuring bylaws have a clear, practical and efficient approach to allow for their enforcement.
- (9) Ensuring the bylaw-making process has regard to bylaw administration, implementation and monitoring.
- (10) Providing for the use of infringement notices under the Local Government Act 2002.

To successfully meet the new challenges and expectations requires a robust supporting bylaw framework.

A **supporting bylaw framework** relates to bylaw administration matters and bylaw form that together provide the foundation to the development of any bylaw.

A review of the supporting bylaw frameworks of the eight former local authorities in the Auckland region has determined that the development of standalone bylaws consistent with a bylaw standard is the most appropriate way to meet the new challenges and expectations.

## 1.1 Purpose

The purpose of the Auckland Bylaw Standard is to facilitate the development of bylaws that are easy to understand, use and maintain in a manner that meets the new challenges and expectations for bylaws in Auckland.

The Auckland Bylaw Standard contains four main parts.

The **Bylaw Process Standard** aims to ensure a robust decision-making process on whether a bylaw is appropriate to address a problem and is the most appropriate form of bylaw.

The **Bylaw Administration Standard** aims to provide for consistency by prescribing the use of common definitions and common provisions for licences, enforcement, offences and penalties for all bylaws. The standard also lists definitions and provisions that are not to be used.

The **Bylaw Structure Standard** aims to provide a consistent structure (or layout) for all bylaws and prescribes a number of specific drafting standards.

The **Bylaw Drafting Standard** aims to provide for the clear drafting of bylaws by prescribing general drafting standards, and prescribing specific drafting standards not contained in the Bylaw Administration Standard or Bylaw Structure Standard.

## 1.2 Application

The Auckland Bylaw Standard is a regulatory policy governing the making of bylaws.

For bylaws of the Auckland Council and Auckland Transport, this standard will be used to contribute to the determination of the most appropriate form of bylaw.

For bylaws proposed by a local board or the Auckland water organisation under the Local Government (Auckland Council) Act 2009, this standard is a policy for the purposes of sections 24(2)(b) and section 61(2)(d) of that Act. This means that any proposed bylaw must not be inconsistent with this standard.

The Planning, Policy and Bylaws Unit of the Auckland Council is responsible for developing and maintaining this standard.

The Planning, Policy and Bylaws Unit (in relation to bylaws made by the Auckland Council) or Regulation and Standards Unit (in relation to bylaws made by Auckland Transport) are independently responsible for ensuring all bylaws are developed in accordance with this standard.

# 2.0 BYLAW PROCESS STANDARD

The purpose of the Bylaw Process Standard is to ensure a robust decision-making process on whether a bylaw is the appropriate way to address a problem and if so, is the most appropriate form of bylaw.

**Standard 1: In considering whether to make, amend or revoke a bylaw, or in reviewing a bylaw the following requirements must be met (including with all necessary modifications where not required by the bylaw empowering legislation):**

- (1) The decision-making and consultation requirements in Part 6 of the Local Government Act 2002 must be complied with.
- (2) The procedure for making bylaws and review of bylaw requirements in Part 8 of the Local Government Act 2002 (sections 155 to 160) must be complied with, including the use of the special consultative procedure.
- (3) The views of local boards must be sought prior to the commencement of the special consultative procedure.
- (4) The administration, implementation and monitoring requirements must be determined.
- (5) Before any decision is made to commence the special consultative procedure and before a decision is made to make the bylaw following the special consultative procedure submission period, the Manager Planning, Policy and Bylaws in relation to a bylaw made by the Auckland Council and the Manager Regulation and Standards in relation to a bylaw made by Auckland Transport, must approve the bylaw form.

In circumstances where the bylaw empowering legislation does not require compliance with the Local Government Act 2002, the standard must still be met with all necessary modifications. For instance, while bylaws made pursuant to the Land Transport Act 1998 and in accordance with Land Transport Rule: Setting of Speed Limits 2003 are not required to be made using the special consultative procedure under the Local Government Act 2002, the use of the special consultative procedure to ensure stakeholder participation is good practice and should be used (with all necessary modifications) when making these bylaws.

The Bylaw Process Standard is intentionally brief. Process requirements and best practice are adequately covered in legislation and publications (e.g. Local Government Knowhow Guide), and will be further developed by the Planning, Policy and Bylaws Unit of Auckland Council. This unit is responsible for assisting with the review, making, amendment and revocation of bylaws of the Auckland Council and can provide services to any bylaw making or bylaw proposing authority.

# 3.0 BYLAW STRUCTURE STANDARD

The Bylaw Structure Standard aims to provide a consistent structure (or layout) for all bylaws and prescribes a number of specific drafting standards.

The Bylaw Structure Standard is consistent with regulations, another form of secondary legislation.

Key concepts include (refer Table 7 for details):

- (1) Addressing matters of bylaw authority and validation on the first page and in information-only history attachments (e.g. who made the bylaw, how and using what powers, last bylaw update, revocations, amendments and next review by date).
- (2) Clearly identifying what is expected, when a breach of a bylaw occurs and what the consequences are in terms of enforcement, offences and penalties;
- (3) Providing for the creation of region-wide bylaw frameworks where specific controls can be made under delegated authority;
- (4) Providing for information-only matters to provide a complete picture, including infringement tables.

**Standard 2: In drafting any bylaw, the drafting standards contained in Table 1 and the structure contained in Appendix 1 (illustrated in Table 1) must be followed without modification.**

**Table 1: Bylaw structure that must be used in the drafting of every bylaw without modification**

Bylaw Structure Standard Illustrated	Bylaw Structure Standard Stated
<p>[Page setup: margins 3 cm at top, bottom, left, right, gutter 0 cm; orientation portrait; paper A4]</p> <p style="text-align: center;"><b>[Insert coat of arms]</b></p> <p style="text-align: center;"><b>[Insert title] Bylaw [insert year first made: Arial Bold 18]</b></p> <p style="text-align: center;"><b><i>[Insert Te Reo title: Arial Bold Italic 12]</i></b></p> <p>(as at [insert date bylaw last updated: All text unless otherwise stated is Arial 10])</p> <p style="text-align: center;">[Insert “Governing Body of Auckland Council” or “Auckland Transport”]</p> <p style="text-align: center;"><b>Resolution [“in Council” or “of Board”]: Arial Bold 12]</b></p> <p style="text-align: center;">[insert date of resolution]</p> <p>Pursuant to [insert statutory provision that authorises the making of the bylaw], the [insert “Governing Body of Auckland Council” or “Governing Body of Auckland Transport”],[insert “makes the following bylaw” or “revokes and replaces bylaws about [insert matter] matters with the following bylaw”.</p>	<p><b>Standard 3: Title must as short as possible. This is particularly important because infringement regulations include the bylaw title.</b></p> <p><b>Standard 4: The title must sum up the issue the bylaw addresses.</b></p> <p><b>Standard 5: The title must not include the term “private place”, “public place”, or variations of the same.</b> All bylaws relate to private or public places (sometimes both) and inclusion of these terms does not make for easy understanding or use across all bylaws, in particular when some titles include the terms and others do not. Example:  <input checked="" type="checkbox"/> Alcohol Control in Public Places  <input checked="" type="checkbox"/> Alcohol Control Bylaw</p> <p><b>Standard 6: The title must not include reference to “Governing Body of Auckland Council”, “Governing Body of Auckland Transport”, “Auckland Council”, “Local Board”, “Auckland Water Organisation”, or variations of the same.</b> Whilst a local board or the Auckland water organisation may propose bylaws, it is the governing body of Auckland Council or Auckland Transport that makes the bylaw.</p> <p>The date of last update, bylaw making authority and date of resolution making the bylaw are intended to provide primary historical information. More detailed historical information is required to be contained in information only attachments.</p> <p>The statutory provisions used to make the bylaw are critical to the use of enforcement powers and penalties, and to initiate a 5 or 10 year review cycle.</p>

Bylaw Structure Standard Illustrated		Bylaw Structure Standard Stated																																																			
<p style="text-align: center;"><b>Contents [Arial Bold 10]</b></p> <p>[Contents Arial 8]</p> <table border="1"> <thead> <tr> <th>Clause</th> <th>Description</th> <th>Page</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Title</td> <td></td> </tr> <tr> <td>2</td> <td>Commencement</td> <td></td> </tr> <tr> <td>3</td> <td>Application</td> <td></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Part 1 [Arial Bold 8]</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Preliminary provisions</b></td> </tr> <tr> <td>4</td> <td>Purpose</td> <td></td> </tr> <tr> <td>5</td> <td>Interpretation</td> <td></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Part 2</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>[Insert specific bylaw matters]</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Part 3</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Controls and licences</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Part 4</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Enforcement, offences and penalties</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Part 5</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Savings and transitional provisions</b></td> </tr> <tr> <td colspan="3" style="text-align: center;"><b>Schedules</b></td> </tr> </tbody> </table>		Clause	Description	Page	1	Title		2	Commencement		3	Application		<b>Part 1 [Arial Bold 8]</b>			<b>Preliminary provisions</b>			4	Purpose		5	Interpretation		<b>Part 2</b>			<b>[Insert specific bylaw matters]</b>			<b>Part 3</b>			<b>Controls and licences</b>			<b>Part 4</b>			<b>Enforcement, offences and penalties</b>			<b>Part 5</b>			<b>Savings and transitional provisions</b>			<b>Schedules</b>			<p>When replacing multiple bylaws with a single bylaw, the review cycle is 5 years as in effect a new bylaw has been made even though it is the result of a review.</p> <p>Example:</p> <p><input checked="" type="checkbox"/> Pursuant to section 158 of the Local Government Act 2002, the Governing Body of Auckland Council, revokes certain bylaws about alcohol control matters and makes the following bylaw.</p> <p>When replacing a single bylaw with an updated version of the same bylaw, the review cycle is 10 years</p> <p>Example:</p> <p><input checked="" type="checkbox"/> Pursuant to section 158 of the Local Government Act 2002, the Governing Body of Auckland Council, revokes and replaces certain bylaws about alcohol control matters with the following bylaw.</p>
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<b>1</b>	<p><b>Title [Clause headings Arial Bold 10]</b></p> <p>(1) This bylaw is the [Insert bylaw title].</p>	<p><b>Standard 7: The title must be the same as that stated at the start of the bylaw. No long or short title is to be used.</b></p>																																																			
<b>2</b>	<p><b>Commencement</b></p> <p>[Option 1]</p> <p>(1) This bylaw comes into force on [insert commencement date (dd month yyyy)].</p> <p>[Option 2]</p> <p>(1) This bylaw comes into force [insert period] after the date on which this bylaw receives the resolution in council.</p> <p>[Option 3]</p> <p>(1) [Insert "Clause xx comes" or "Clauses xx come"] into force [insert period] after the date on which this bylaw receives the resolution in council.</p> <p>(2) The rest of this bylaw comes into force on [insert commencement date (dd month yyyy)].</p>	<p>Three options are provided to cater for single and phased commencements.</p>																																																			
<b>3</b>	<p><b>Application</b></p> <p>(1) This bylaw applies to the [insert geographic area that the bylaw applies to. E.g. "district of the Auckland Council", "region of the Auckland Council", "xyz local board area"].</p>	<p>Whilst the intention is to create region-wide bylaw frameworks, this clause is required for instances where this approach is not followed and for consistency reasons is required in all bylaws. For instance, a bylaw may be made that applies to only certain local board areas or geographical areas.</p> <p>It is also required to differentiate between bylaws that apply to Auckland as a "district" or as a "region", as these have different seaward boundaries.</p>																																																			

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<p style="text-align: center;"><b>Part 1</b> <b>Preliminary provisions</b> [Part headings Arial Bold 12]</p> <p><b>4 Purpose</b></p> <p>(1) The purpose of this bylaw is to [insert purpose] by [insert primary means].</p> <p><b>5 Interpretation</b></p> <p>(1) In this bylaw, unless the context otherwise requires,— [Insert term] means [insert definition].</p> <p>(2) Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without any formality</p> <p>(3) The Interpretations Act 1999 applies to this Bylaw.</p>	<p><b>Standard 8: Purpose must be concise, relate to the problem identified through the bylaw development process and statutory empowerment, and state only the primary means to achieve the purpose.</b></p> <p>Example:</p> <p><input checked="" type="checkbox"/> The purpose of this bylaw is to address the harmful and negative effects associated with the consumption of alcohol in public places, including .... This bylaw is part of a strategic approach to reduce alcohol-related problems in .... This chapter controls the consumption or possession of liquor in public places specified from time to time by resolution of the council. A liquor control does not affect the ability of people to .... The council is also able to grant a permit ...</p> <p><input checked="" type="checkbox"/> The purpose of this bylaw is to contribute to the reduction of alcohol-related crime and disorder by providing a framework that allows for the prohibition of alcohol in public places.</p> <p><b>Standard 9: The definitions in Table 2 must be used in the interpretation clause where relevant.</b></p> <p>Reference to the Interpretations Act 1999 addresses all the relevant matters contained in Table 5 and precludes their duplication in every bylaw.</p>
<p style="text-align: center;"><b>Part 2</b> <b>[Insert specific bylaw matters]</b></p> <p><b>6 [Insert specific bylaw matters]</b></p> <p>(1) [Insert specific bylaw matters]</p> <p>[If the bylaw is made under more than one statute insert “Explanatory note: This clause is made under [insert relevant legislative provision].”]</p>	<p><b>Standard 10: Part 2 must contain the behaviours required of persons.</b> This is to assist in establishing clear links between a behaviour and a breach of a bylaw, statutory offence and statutory penalty. Example:</p> <p><input checked="" type="checkbox"/> (1) The owner of any dog must ensure that their dog-</p> <p style="padding-left: 20px;">(a) does not enter or remain in any public place prohibited to dogs specified in the First Schedule of this bylaw.</p> <p style="padding-left: 20px;">(b) is kept on a leash in any public place specified in the Second Schedule of this bylaw.</p> <p><b>Standard 11: Part 2 may contain any of the following matters:</b></p> <p><b>(1) Any framework that allows the making of specific controls under delegated authority (the detail of which is addressed in Part 3).</b></p> <p>Example:</p> <p><input checked="" type="checkbox"/> (1) The council may make alcohol controls in accordance with Part 3.</p> <p><b>(2) Any matters that require a licence to be obtained.</b> Example:</p> <p><input checked="" type="checkbox"/> (1) The owner of any bird must not keep more than 6 head of poultry an urban area unless expressly allowed by a licence.</p> <p>See also Standard 39 and associated commentary more details on delegated decision-making.</p>

Bylaw Structure Standard Illustrated	Bylaw Structure Standard Stated
	<p><b>Standard 12: Part 2 must not contain:</b></p> <p><b>(1) Any matter addressed in another part of the Bylaw Structure Standard, except that where a bylaw is of a size or complexity that does not justify a division between Part 2 and Part 3, Part 3 provisions can be included in Part 2.</b> The division between Part 2 and Part 3 is intended for clarity of large or complex bylaws.</p> <p><b>(2) Any matter contrary to the Bylaw Administration Standard.</b></p>
<p style="text-align: center;"><b>Part 3 Controls and licences</b></p> <p>#        <b>[Insert specific provision]</b> (1)       <b>[Insert specific provision]</b></p>	<p><b>Standard 13: The detail of any framework provided in Part 2 must be detailed in Part 3.</b> Example: <input checked="" type="checkbox"/> <b>Alcohol Controls</b></p> <p>(1) The council must, before making an alcohol control, be satisfied that:     (a) ...</p> <p><b>Standard 14: The licence provisions in Table 6 must be used if a licence is required in Part 2 of any bylaw.</b> See also Standard 21 to 24 and associated commentary more details on controls and licences.</p>
<p style="text-align: center;"><b>Part 4 Enforcement, offences and penalties</b></p> <p>#        <b>[Insert specific enforcement powers]</b> (1)       <b>[Insert specific enforcement powers]</b></p> <p>#        <b>[Insert specific penalty]</b> (1)       <b>[Insert specific penalty]</b></p>	<p><b>Standard 15: The statutes used to enforce a bylaw, and any enforcement powers required by statute to be specified in a bylaw must be included in Part 4.</b> The aim is to clearly identify all the things the council may do to enforce the bylaw without repeating the detail of the legislative provisions.</p> <p><b>Standard 16: The statutory enforcement powers summarised in Table 6 must be used where relevant.</b></p> <p><b>Standard 17: Every bylaw must specify when a breach of a bylaw occurs, state the statute(s) that contain the penalties that may be imposed, and specify offence and penalty provisions only where required by statute.</b> The aim is to clearly identify the consequences without repeating the detail of the legislative provision.</p> <p><b>Standard 18: The statutory penalties summarised in Table 6 must be used where relevant.</b>  See also Standard 25 to 26 and associated commentary more details on enforcement, offences and penalties.</p>



Bylaw Structure Standard Illustrated	Bylaw Structure Standard Stated
<p style="text-align: center;"><b>Part 5</b></p> <p style="text-align: center;"><b>Savings, Transitional Provisions</b></p> <p># [Insert specific provision] (1) [Insert specific provision]</p>	<p>Example of saving:</p> <p><input checked="" type="checkbox"/> (#) <b>Existing approvals to continue in force</b></p> <p>(1) This clause applies to the former ABC Bylaw, DEF Bylaw, GHI Bylaw, JKL Bylaw, MNO Bylaw, PQR Bylaw, STU Bylaw and VWX Bylaw.</p> <p>(2) Every licence, permit, dispensation, permission or other form of approval granted under any bylaw in subclause (1) that was in force immediately before the commencement of this bylaw, continues in force as if it is a licence of that kind issued under this Bylaw; but—</p> <p>(a) it expires on the date specified in that licence; or</p> <p>(b) if no expiry date is specified, it expires on the date 12 months after the commencement of this bylaw; and</p> <p>(c) it can be renewed only by application made and considered under this bylaw.</p> <p><input checked="" type="checkbox"/> <b>Certain applications to be dealt with under former bylaw</b></p> <p>(1) This clause applies to any application for a licence, permit, dispensation, permission or other form of approval made under the former ABC Bylaw, DEF Bylaw, GHI Bylaw, JKL Bylaw, MNO Bylaw, PQR Bylaw, STU Bylaw and VWX Bylaw if—</p> <p>(a) it was filed before the day on which this bylaw received the resolution in council or</p> <p>(b) it was filed after that day, but began to be heard within 6 months of that day.</p> <p>(2) An application to which this clause applies must be dealt with by the council—</p> <p>(a) under the relevant former bylaw in subclause (1); and</p> <p>(b) as if this bylaw had not been made.</p> <p>The above examples illustrate the need to consider a number of matters such as the number of former bylaws replaced, variety of former terminology, possible absence of expiry dates, and possible need for a transition period to enable the development of a licence process. Where possible, the licence process should be included as part of the special consultative procedure (notwithstanding that it need not be and does not form part of the bylaw) for transparency of a new approach to bylaw development and to eliminate the need for a transition period.</p>
<p style="text-align: center;"><b>Schedules</b></p>	<p>Schedules form part of the bylaw. The use of schedules is an effective means to avoid the main body of the bylaw from becoming difficult to read. Examples of information contained in schedules include dog access rules.</p>

# Additional information to [insert title] Bylaw [Arial Bold 18]

This document is for information purposes only and does not form part of this bylaw. It contains matters made pursuant to this bylaw, and information to help users understand, use and maintain this bylaw. The document may be updated at any time.

## Contents [Arial Bold 10]

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3	Delegations	
4	Register of controls	
5	Licences	
6	Enforcement powers	
7	Offences and penalties [insert other relevant matters] Monitoring and review	

Self explanatory

## Section 1: History of bylaw [Section headings Arial Bold 12]

Action	Description	Date of decision	Decision reference	Commencement

**Standard 19: “Action” words to be used are “Make”, “Amend”, “Revoke”, “Replace”.**

The “action” column is intended to provide a quick reference as opposed to reading the description.

Description refers to a brief explanation to the action.

Date of decision refers to the date of resolution in council or of board.

Decision reference refers to the resolution in council or of board reference (e.g. minute number).

Commencement refers to the date the bylaw matter comes into force.

## Section 2: Related Documents

Title	Description	Location

The standard aims to provide the reader with a list of documents that read together provide the complete picture of the issue and how it is addressed.

Documents should relate to:

- (1) Community outcomes (e.g. Long Term Plan or strategy, framework, policy)
- (2) Bylaw reports (e.g. Statement of Proposal, hearings report, decision report)
- (3) Other methods (e.g. District Plan, Reserve Management Plan)
- (4) Legislation
- (5) Implementation (e.g. processes and practices)

Location relates to where the document can be viewed. Where a document is contained in an agenda, location also includes the name of the meeting and item number.

**Example:**

**Related documents for Dog Control Bylaw**

Document	Description	Location
<i>Community Outcomes</i>		
Policy on Dogs	Provides objectives for the care and control of dogs	www.aucklandcouncil.govt.nz/dogs
<i>Bylaw Reports</i>		
Statement of Proposal	Provides background to policy and bylaw on dogs	Item 10, Meeting of Governing Body on 24 February 2011 www.aucklandcouncil.govt.nz
Hearings Report	Provides background to policy and bylaw on dogs	Item 10, Meeting of Hearings Committee on 24 February 2011 www.aucklandcouncil.govt.nz
Decision Report	Provides background to policy and bylaw on dogs	Item 10, Meeting of Governing Body on 24 February 2011 www.aucklandcouncil.govt.nz
<i>Legislation</i>		
Dog Control Act 1996	Primary legislation for care and control of dogs	www.legislation.govt.nz
Local Government Act 2002	Provides certain functions, duties, powers and penalties referred to by Dog Control Act 1996	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws	www.legislation.govt.nz
Interpretations Act 2009	Provides for certain matters related to the interpretation of bylaws	www.legislation.govt.nz
<i>Implementation</i>		
Dog Policy and Practices Annual Report	Provides annual report on methods to implement policy, performance and statistical information.	www.aucklandcouncil.govt.nz/dogs

**Section 3: Delegations**

Clause	Function, duty, power to be delegated	Delegated authority	Date of delegation decision	Decision reference	Commencement of delegation

**Standard 20: Every function, duty and power of a bylaw must be listed, and where not delegated, must under “Authority” state “Governing body of the Auckland Council” or “Governing body of Auckland Transport”.**

For the avoidance of doubt, this does not mean a full delegation table of functions, powers and duties under the empowering legislation (including enforcement), although the standard does not preclude this. Refer comments under definition of “Council” in Table 2 for further explanation.

Clause refers to the relevant bylaw clause.

Function, duty, power to be delegated refers to a brief explanation of the function, power or duty to be delegated and must be the same as that contained in the delegation register.

Delegated authority refers to the person by whom the function, duty or power is to be carried out.

Date of delegation decision refers to the date the decision to delegate the function, duty or power was made.

Decision reference refers to the authority who made the decision (e.g. Governing Body or Chief Executive Officer) and a minute number for Governing Body or memo reference number or date for Chief Executive Officer.

## Section 4: Register of controls

Action	Description	Date of decision	Decision reference	Commencement

See also Standard 19 and associated commentary.

**Standard 21: Controls made by officers under delegated authority must use the template prescribed in Appendix 3.**

Decision reference typically refers to a resolution in council, resolution in committee, resolution of local board. However, in the case of officer delegations, no formal resolution is created. The template prescribed in Appendix 3 addresses this.

**Standard 22: The current controls referred to in the register of controls table may be included in this section. If they are included, each control must be linked to the table so that it is easy to identify when the decision reference and commencement date.**

Because the flexibility of controls is expected to result in frequent updates, the standard aims for the actual controls (where included) to be current and "clean" (i.e. no annotations or explanatory notes).

Example:

History of Register for Alcohol Controls

Description	Date of Decision	Decision Reference	Commencement
Make alcohol controls in Manurewa Local Board Area	25 Sep 2008	CL/SEP/108 3/08	01 Oct 2008
Make alcohol control for Hayman Park	27 May 2010	CL/MAY/512 /10	01 Jun 2010
Amend Felicia Park alcohol control to include road	27 May 2010	CL/NOV/512 /11	01 Dec 2011

### Register for Alcohol Controls

(1) Alcohol controls apply in the following areas at all times.

Area	Date of Decision
Manukau City Centre (Map 1)	25 Sep 2008
Felicia Park (Map 2)	25 Sep 2008 27 May 2010
Hayman Park (Map 3)	27 May 2010

## Section 5: Licence process

Action	Description	Date of decision	Decision reference	Commencement

See also Standard 19 and associated commentary

**Standard 23: Licence processes made by officers under delegated authority must use the template prescribed in Appendix 3.**

**Standard 24: The current licence process referred to in the licence process table may be included in this section. If it is included, use explanatory notes to identify any insertion, amendment or revocation of any part of the licence process in a similar manner to that required by Standard 37.**

## Section 6: Enforcement powers

Legislative provision	Description

**Standard 25: All the relevant statutory powers able to be used to enforce the bylaw must be identified as part of the bylaw development process and summarised here.**

<p><b>Section 7: Offences and penalties</b></p> <table border="1" data-bbox="151 248 719 398"> <thead> <tr> <th>Provision</th> <th>Description of offence</th> <th>Fine</th> <th>Infringement fee</th> <th>Other penalty</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	Provision	Description of offence	Fine	Infringement fee	Other penalty																<p><b>Standard 26: All offences and penalties under the bylaw must be identified as part of the bylaw development process and summarised here. The description of offence must be concise and relate to the clause that identifies the breach of the bylaw.</b></p> <p>Provision refers to the relevant bylaw clause.</p> <p>Example:</p> <p><input checked="" type="checkbox"/></p> <table border="1" data-bbox="852 521 1434 622"> <thead> <tr> <th>Provision</th> <th>Description of Offence</th> <th> </th> </tr> </thead> <tbody> <tr> <td>cl 6(2)</td> <td>Failure to comply with requirements for the keeping of birds</td> <td> </td> </tr> </tbody> </table> <p>This table is similar to the form of regulations made by the Governor General for infringement offences and fees and aims to assist in requests to the Minister for the Governor General to make regulations for the same (i.e. is to be developed as part of the bylaw process). The standard has provided for the worst case scenario that infringement offences by regulation will be made for a specific breach of a bylaw as opposed to certain classes or any breach of a bylaw. This is a matter to be determined by the Governor General, Minister, and Department of Internal Affairs.</p> <p>Note: There may be some repetition with Part 5 Offences and penalties of the Bylaw where the council has the power to set fines and infringement fees. In those instances the amounts must be included in the bylaw. In all other instances fine and infringement fee amounts are set in legislation or regulations and need not be included in the bylaw.</p>	Provision	Description of Offence		cl 6(2)	Failure to comply with requirements for the keeping of birds	
Provision	Description of offence	Fine	Infringement fee	Other penalty																							
Provision	Description of Offence																										
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<p align="center"><b>Section [#] Monitoring and review</b></p> <table border="1" data-bbox="151 1400 759 1554"> <thead> <tr> <th>Performance indicator</th> <th>Measured by</th> <th>Target</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Performance indicator	Measured by	Target										<p>Performance indicators must enable the ongoing monitoring of the effectiveness of the bylaw to achieve the outcome identified through the decision-making process which should reflect the outcomes of the related strategy or policy.</p> <p>Wherever possible, cause and effect relationships should be measured, the effect of practice on performance identified, and external factors beyond the influence of the council acknowledged.</p> <p>A review date should be included, regardless of whether a legislative review is required.</p>														
Performance indicator	Measured by	Target																									

# 4.0 BYLAW ADMINISTRATION STANDARD

The Bylaw Administration Standard aims to provide for consistency by prescribing the use of common definitions and common provisions for licences, enforcement and offences and penalties for all bylaws. The standard also lists definitions and provisions that are not to be used.

The bylaw administration standard is formatted in a way that reflects the order of matters contained in the general administration bylaws of the former Rodney District Council, Northshore City Council, Waitakere City Council, Auckland City Council and Manukau City Council, and New Zealand Standard (NZS 9201: Part 1:2007). The Auckland Regional Council, Papakura District Council and Franklin District Council adopted standalone bylaws. This format is intended to assist the reader who is familiar with bylaws of the former councils of the Auckland region and New Zealand Standard to understand the requirements of the standard.

Key concepts that the Bylaw Administration Standard uses are:

- (1) The use of the term “licence” to streamline all previous permit, licence, approval related terminology in bylaws. This does not preclude the name of a licence referring to a permit or licence (e.g. Residents Parking Permit) but does remove confusing terminology in bylaws.
- (2) The use of the term “the council” or “Auckland Transport” to streamline all previous delegation related terminology. For clarity, the term will be supported by new information only delegation tables.
- (3) Inclusion of relevant statutory definitions in information only summaries.
- (4) The absence of interpretation provisions. Relevant interpretation provisions are covered in the Interpretation Act 1999.
- (5) The absence of prescription for notices and processing of licences to allow flexibility for best practice service delivery.
- (6) The inclusion of an information only summary of relevant statutory enforcement powers, offences and penalties to clearly identify the consequences to public and politicians and for information of enforcement officers.
- (7) The provision for dispensations on a case by case basis by way of licences, exceptions, bylaw amendments and enforcement discretion.

**Standard 27: In drafting any bylaw, the bylaw administration matters contained in Table 2 (definitions) and Table 6 (licences, enforcement, offences and penalties) must be used where relevant. Relevant matters may only be modified due to:**

- (1) Conflict with legislation. Where a relevant definition in this section conflicts with a relevant legislative definition, the legislative definition must be used.**
- (2) Conflict with a decision of a Court of New Zealand.**

**For the avoidance of doubt, any relevant bylaw administration matter must not be modified due to drafting preferences and styles.**

## 4.1 Definitions

**Standard 28: In drafting any bylaw, the definitions contained in Table 2 must be used in the drafting of every bylaw where the definition is relevant to the bylaw matter (refer to exemptions in Standard 27).**

**Standard 29: In drafting any bylaw, the definitions and terms contained in Table 3 must not be used in the drafting of any bylaw.**

This Standard does not prevent the inclusion of additional definitions. Table 4 contains definitions that are considered to be bylaw specific that may fit into this category.

**Table 2: Definitions that must be used in the drafting of every bylaw where relevant**

Term (no. of former councils & NZS using matter)	Bylaw Administration Standard	Commentary
<b>Auckland Transport (0)</b>	<p><b>Auckland Transport</b> means the Governing Body of the Auckland Transport or any person delegated to act on its behalf.</p> <p><i>Explanatory Note: A list of delegations may be attached to this bylaw for information only purposes.</i></p>	Refer to commentary for “Council”, in particular about delegations.
<b>Beach (2)</b>	<p><b>Beach</b> means the foreshore and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation.</p>	The approach to develop issues-based standalone bylaws will result in bylaws about similar places.
<b>Council (6)</b>	<p><b>Council</b> means the [insert “Governing Body of the Auckland Council” or “Governing Body of Auckland Transport”] or any person delegated to act on its behalf.</p> <p><i>Explanatory Note: A list of delegations may be attached to this bylaw for information only purposes.</i></p>	<p>Related to delegations. Standard aims to streamline all previous delegation related terminology (e.g. “agent”, “officer”).</p> <p>A list of delegations (including those retained by the governing body) for each matter specified in the bylaw to be decided pursuant to the bylaw is to be contained in information only documentation.</p> <p>For the avoidance of doubt, this does not mean a full delegation table of functions, powers and duties under the empowering legislation (including enforcement), although the standard does not preclude this.</p> <p>Examples of matters specified in the bylaw to be decided pursuant to the bylaw could include:</p> <ul style="list-style-type: none"> <li>(a) specification of alcohol controls (liquor bans);</li> <li>(b) licence process (including criteria, conditions etc...) for residents parking permits;</li> <li>(c) licence process (including criteria, conditions etc...) for mobile trading licences;</li> <li>(d) controls for skin piercing operations.</li> <li>(e) controls for freedom camping</li> </ul> <p>Refer Standard 39 in relation to the use of delegation powers.</p>
<b>Footpath (3)</b>	<p><b>Footpath</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 315 of the Local Government Act 1974 "...means so much of any road as is laid out or constructed by authority of the council primarily for pedestrians; and includes the edging, kerbing, and channelling thereof."</i></p>	Refer to commentary for “Beach”.
<b>Foreshore (5)</b>	<p><b>Foreshore</b> has the meaning given by section 2 of the Resource Management Act 1991.</p> <p><i>Explanatory Note: As at as at 16 December 2010, the definition in section 2 of the Resource Management Act 1991 "...means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any</i></p>	Refer to commentary for “Beach”.

Term (no. of former councils & NZS using matter)	Bylaw Administration Standard	Commentary
	<i>such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area."</i>	
<b>Licence (4)</b>	<b>Licence</b> means a licence, permit or approval to do something under this bylaw and includes all conditions to which the licence is subject.	Term to streamline all previous licence-related terminology (e.g. "permit").
<b>Motor vehicle (6)</b>	<p><b>Motor Vehicle</b> has the meaning given by the Land Transport Act 1998.</p> <p><i>Explanatory Note: As at as at 01 February 2011, the definition in section 2(1) of the Land Transport Act 1998 "...</i></p> <p><i>(a) means a vehicle drawn or propelled by mechanical power; and</i></p> <p><i>(b) includes a trailer; but</i></p> <p><i>(c) does not include—</i></p> <p><i>(i) a vehicle running on rails; or</i></p> <p><i>(ii) [Repealed]</i></p> <p><i>(iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or</i></p> <p><i>(iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or</i></p> <p><i>(v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or</i></p> <p><i>(vi) a pedestrian-controlled machine; or</i></p> <p><i>(vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or</i></p> <p><i>(viii) a mobility device"</i></p>	
<b>Occupier (5)</b>	<p><b>Occupier</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 2(1) of the Local Government Act 1974 "...in relation to any property, means the inhabitant occupier of that property."</i></p>	Refer to commentary for "Property".
<b>Owner (4)</b>	<p><b>Owner</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 2(1) of the Local Government Act 1974 "...in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent."</i></p>	Refer to commentary for "Property".
<b>Person (5)</b>	<p><b>Person</b> has the meaning given by the Interpretation Act 1999.</p> <p><i>Explanatory Note: As at as at 01 October 2008, the definition in section 29 of the Interpretation Act 1999 states "person includes a corporation sole, a body corporate, and an unincorporated body."</i></p>	As at as at 01 October 2008, the definition in section 29 of the Interpretation Act 1999 states "person includes a corporation sole, a body corporate, and an unincorporated body."
<b>Premises (5)</b>	<b>Premises</b> means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.	Refer to commentary for "Beach".  Definition cited from NZS9201.1:2007
<b>Private Road (2)</b>	<p><b>Private Road</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 315 of the Local Government Act 1974 "...means any roadway, place, or arcade laid out or formed within a district on private land, whether before or after the commencement of this Part, by the owner thereof, but</i></p>	Refer to commentary for "Beach".



Term (no. of former councils & NZS using matter)	Bylaw Administration Standard	Commentary
	<i>intended for the use of the public generally."</i>	
<b>Private Way (2)</b>	<p><b>Private Way</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 315 of the Local Government Act 1974 "...means any way or passage whatsoever over private land within a district, the right to use which is confined or intended to be confined to certain persons or classes of persons, and which is not thrown open or intended to be open to the use of the public generally; and includes any such way or passage as aforesaid which at the commencement of this Part exists within any district."</i></p>	Refer to commentary for "Beach".
<b>Property (1)</b>	<p><b>Property</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 2(1) of the Local Government Act 1974 "...includes all real estate, and all personal estate, chattels, and effects, and all money and rates, whether in possession or reversion or recoverable by action or other legal proceeding, and the benefit of any contract or engagement, and every matter or thing the subject of property."</i></p>	Definition relates to property matters and operates in conjunction with the definitions for Occupier and Owner.
<b>Public Place (5)</b>	<p><b>Public place</b> has the meaning given by the Local Government Act 2002.</p> <p><i>Explanatory Note: As at as at 27 November 2010, the definition in section 147(1) of the Local Government Act 2002 "(a) means a place—</i></p> <ul style="list-style-type: none"> <li><i>(i) that is under the control of the territorial authority; and</i></li> <li><i>(ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and</i></li> </ul> <p><i>(b) includes—</i></p> <ul style="list-style-type: none"> <li><i>(i) a road, whether or not the road is under the control of a territorial authority; and</i></li> <li><i>(ii) any part of a public place."</i> <p><b>Public place</b> has the meaning given by the Dog Control Act 1996.</p> <p><i>Explanatory Note: As at as at 27 November 2010, the definition in section 2 of the Dog Control Act 1996 "(a) means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and</i></p> <ul style="list-style-type: none"> <li><i>(b) includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.</i></li> </ul> </li></ul>	<p>Two definitions are provided. Where a public place definition is relevant to a bylaw, the most appropriate definition provided is to be used.</p> <p>One definition applies to council controlled public places as contained in section 147(1) of the Local Government Act 2002. The other definition applies to all public places as contained in section 2 of the Dog Control Act 1996.</p> <p>Refer to commentary for "Beach".</p>
<b>Reserve (2)</b>	<p><b>Reserve</b> means-</p> <ul style="list-style-type: none"> <li>(a) any land vested in or administered by the council under the provisions of the Reserves Act 1977; or</li> <li>(b) any park, domain or recreational area under the control or ownership of the council.</li> </ul>	<p>Definition intends to cover all council controlled land for recreational purposes.</p> <p>Also refer to commentary for "Beach".</p>
<b>Road (4)</b>	<p><b>Road</b> has the meaning given by the Local Government Act 1974.</p> <p><i>Explanatory Note: As at as at 01 November 2010, the definition in section 315 of the Local Government Act 1974 "...means the whole of any land which is within a district, and which—</i></p> <ul style="list-style-type: none"> <li><i>(a) immediately before the commencement of this Part was a road or street or public highway; or</i></li> <li><i>(b) immediately before the inclusion of any area in the district was a public highway within that area; or</i></li> </ul>	Refer to commentary for "Beach".

Term (no. of former councils & NZS using matter)	Bylaw Administration Standard	Commentary
	<p>(c) <i>is laid out by the council as a road or street after the commencement of this Part; or</i></p> <p>(d) <i>is vested in the council for the purpose of a road as shown on a deposited survey plan; or</i></p> <p>(e) <i>is vested in the council as a road or street pursuant to any other enactment;—</i></p> <p><i>and includes—</i></p> <p>(f) <i>except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:</i></p> <p>(g) <i>every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—</i></p> <p><i>but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roading Powers Act 1989.”</i></p>	
<p><b>Vehicle (6)</b></p>	<p><b>Vehicle</b> has the meaning given by the Land Transport Act 1998.</p> <p><i>Explanatory Note: As at as at 01 February 2011, the definition in section 2(1) of the Land Transport Act 1998 "...</i></p> <p>(a) <i>means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and</i></p> <p>(b) <i>includes a hovercraft, a skateboard, in-line skates, and roller skates; but</i></p> <p>(c) <i>does not include—</i></p> <p>(i) <i>a perambulator or pushchair:</i></p> <p>(ii) <i>a shopping or sporting trundler not propelled by mechanical power:</i></p> <p>(iii) <i>a wheelbarrow or hand-trolley:</i></p> <p>(iv) <i>[Repealed]</i></p> <p>(v) <i>a pedestrian-controlled lawnmower:</i></p> <p>(vi) <i>a pedestrian-controlled agricultural machine not propelled by mechanical power:</i></p> <p>(vii) <i>an article of furniture:</i></p> <p>(viii) <i>a wheelchair not propelled by mechanical power:</i></p> <p>(ix) <i>any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:</i></p> <p>(x) <i>any rail vehicle”</i></p>	

**Table 3: Definitions and terms that must not be used in the drafting of any bylaw**

<b>Term</b> (number of former councils & NZS using matter)	<b>Commentary</b>
<b>Act (3)</b>	Abbreviations detract from ease of understanding and use, particularly where bylaws are made using multiple statutes (e.g. 65% or 13 of 20 Manukau Bylaws). This does not prevent use of abbreviation in a clause.
<b>Agent (1)</b>	Refer to commentary for "Council".
<b>Approved (4)</b>	Refer to commentary for "Council".
<b>Authorised agent (1)</b>	Refer to commentary for "Council".
<b>Authorised officer (5)</b>	Refer to commentary for "Council".
<b>Bylaw (6)</b>	Definition does not apply to standalone bylaw framework. This does not prevent use of the term in a clause (e.g. "in this Bylaw").
<b>Chapter (1)</b>	Definition does not apply to standalone bylaw framework.
<b>Chief Executive(1)</b>	Refer to commentary for "Council".
<b>Clause (1)</b>	Definition does not apply to standalone bylaw framework. This does not prevent use of the term in a clause.
<b>Custodian (1)</b>	Refer to commentary for "Council".
<b>District (6)</b>	Definition addressed in Bylaw Structure Standard. This does not prevent use of the term in a clause.
<b>Enforcement Officer (3)</b>	Refer to commentary for "Council".
<b>Environmental Officer (2)</b>	Refer to commentary for "Council".
<b>Licencee (2)</b>	Not necessary. Also refer commentary to "Licence".
<b>Licensed (1)</b>	Not necessary. Also refer commentary to "Licence".
<b>Local Authority (1)</b>	Definition addressed in Bylaw Structure Standard.
<b>Infringement Offence (1)</b>	Definition addressed in Bylaw Structure Standard. This does not prevent use of the term in a clause.
<b>Offence (1)</b>	Definition addressed in Bylaw Structure Standard. This does not prevent use of the term in a clause.
<b>Officer (1)</b>	Refer to commentary for "Council".
<b>Permit (3)</b>	Refer to commentary for "Licence".
<b>Territorial Authority (1)</b>	Definition addressed in Bylaw Structure Standard.
<b>You/Your (1)</b>	Definition related to persons for which standard adopts a streamlined approach using the definition "Person".

**Table 4: Definitions that are best addressed in the making of a bylaw as opposed to this standard**

<b>Term</b> (number of former councils & NZS using matter)	<b>Term</b> (number of former councils & NZS using matter)	<b>Term</b> (number of former councils & NZS using matter)
<b>Animal (3)</b>	<b>Isthmus (1)</b>	<b>Traffic Sign (1)</b>
<b>Boat Ramp (1)</b>	<b>Litter (2)</b>	<b>Trailer (2)</b>
<b>Building (1)</b>	<b>Medical Officer of Health (1)</b>	<b>Urban Area (2)</b>
<b>Business Zone (1)</b>	<b>New Zealand Standard (1)</b>	<b>Veranda (1)</b>
<b>Catchment (1)</b>	<b>Parking (1)</b>	<b>Vessel (2)</b>
<b>Central Area (1)</b>	<b>Poultry (1)</b>	<b>Watercourse (1)</b>
<b>Craft (1)</b>	<b>Public Building (1)</b>	<b>Water Supply (1)</b>
<b>Deposit (1)</b>	<b>Public Notice, Publicly Notified (3)</b>	<b>Waterworks (2)</b>
<b>District Plan (3)</b>	<b>Residence (1)</b>	<b>Wharf (1)</b>
<b>Dwelling (3)</b>	<b>Rural Area (3)</b>	<b>Written (3)</b>
<b>Fish (1)</b>	<b>Sign (1)</b>	<b>Work (1)</b>
<b>Fishing Vessel (1)</b>	<b>Site, Lot, Allotment (1)</b>	<b>Zone (1)</b>
<b>Goods (1)</b>	<b>Stock (3)</b>	
<b>Horse (1)</b>	<b>Trade Waste (1)</b>	

## 4.2 Interpretation

**Standard 30: That the interpretation matters contained in Table 5 must not be used in drafting any interpretation section of any bylaw.**

Table 5 lists the interpretation matters in the general administration bylaws of the former councils of the Auckland region and New Zealand Standard (NZS 9201: Part 1:2007). None of the matters are considered necessary for bylaws in Auckland for reasons stated in the table.

This does not prevent use of the terms "Part", "Clause", or "Schedule" in a bylaw, simply that the terms do not need to be included or defined in an interpretation section of any bylaw.

**Table 5: Interpretation provisions that must not be used in the drafting of any bylaw**

<b>Matter</b> (no. of former councils & NZS using matter)	<b>Commentary</b>
<b>Singular and Plural (4)</b>	Relevant matters of interpretation are contained in the Interpretations Act 1999 (in this instance section 33). Reference to this act is made in the Bylaw Structure Standard.
<b>Words about places and people (2)</b>	Refer to commentary for "Schedules".
<b>Schedules (3)</b>	Relevant matters of interpretation are contained in the Interpretations Act 1999. Reference to this act is made in the Bylaw Structure Standard.
<b>Obligations (1)</b>	Refer commentary to "Schedules".
<b>"Shall" and "Should" (2)</b>	Refer commentary to "Schedules".  Also, this standard requires all bylaws to use the term "must". The term "shall" is not to be used.
<b>Amendments to statutory provision cited (2)</b>	Relevant matters of interpretation are contained in the Interpretations Act 1999 (in this instance section 20). Reference to this act is made in the Bylaw Structure Standard.
<b>Parts and Clauses (1)</b>	This matter is associated with a general administration bylaw framework and does not apply to a stand-alone bylaw framework adopted by the Auckland Council.
<b>Definition Hierarchy (2)</b>	Refer commentary to "Parts and Clauses".
<b>Headings (2)</b>	Relevant matters of interpretation are contained in the Interpretations Act 1999 (in this instance section 5). Reference to this act is made in the Bylaw Structure Standard.

### 4.3 Other

**Standard 31: The licence, enforcement, offence and penalty matters contained in Table 6 must be used in the drafting of every bylaw where relevant.**

**Standard 32: The bylaw administration matters contained in Table 7 must not be used in the drafting of any bylaw.**

**Table 6: Provisions that must be used in the drafting of every bylaw where relevant**

Matter (no. of former councils & NZS using matter)	Bylaw Administration Standard	Commentary
<b>Licence</b>	<p># Licences</p> <p>(1) [Insert “The council” or “Auckland Transport”] may make controls and set fees for the following matters with respect to any licence required by clause #-</p> <p>(a) applying for a licence, including forms and information;</p> <p>(b) assessing an application for a licence, including inspection;</p> <p>(c) granting or declining an application for a licence;</p> <p>(d) the conditions that may be imposed on a licence;</p> <p>(e) the duration of a licence;</p> <p>(f) objecting about a decision to decline a licence, including the objection period;</p> <p>(g) objecting about a condition of a licence, including the objection period;</p> <p>(h) conducting inspections to ensure that a licence and its conditions are complied with;</p> <p>(i) reviewing a licence or its conditions;</p> <p>(j) transferring a licence;</p> <p>(k) refunding or waiving fees;</p> <p>(l) suspending or cancelling a licence; and</p> <p>(m) objecting about a decision to suspend or cancel a licence, including the objection period.</p> <p>(2) If no controls are made about the duration or transferability of a licence (under clauses (1)(e) and (1)(j)), a licence has a duration of 12 months from the date granted and is not transferable.</p>	<p>Provisions relate to the licensing process. The standard aims to identify the key components of a licensing system to prevent unfettered discretion, whilst providing the council the flexibility to develop and maintain a best practice service delivery model. For instance, transferability of a licence is historically not allowed and this may continue to apply in relation to certain matters where the conduct of the licence holder is a primary concern (e.g. skin piercing licence). However, in other instances, transferability may be allowed (e.g. trading licence in relation to tables and chairs on a footpath in the public place) in a similar manner to the Resource Management Act 1991.</p>
<b>Enforcement</b>	<p># The council may use its powers under the [insert title of relevant legislation] to enforce this bylaw.</p> <p># [Insert any specific enforcement provisions that are required by statute to be specified in the bylaw.]</p>	<p>The Bylaw Form Standard requires every bylaw to identify the statute(s) used to enforce the bylaw, and only to specify the enforcement powers where this is required by statute (e.g. s163 LGA2002 – to remove works in breach of a bylaw where authorised by a bylaw to do so).</p> <p>For the avoidance of doubt, statutory powers to enforce bylaws must not be summarised or restated in the bylaw unless the statute specifically requires it.</p> <p>The summary of enforcement powers is to</p>

<b>Matter</b> (no. of former councils & NZS using matter)	<b>Bylaw Administration Standard</b>	<b>Commentary</b>
		<p>be included in information only documents.</p> <p>This approach aims to ensure that only required provisions with minimal elaboration is included in the bylaw to ensure its legal robustness, while providing a summary of all the necessary provisions in information only documentation to ensure the bylaw is understood.</p>
<b>Offences and Penalties</b>	<p># Every person who fails to comply with this Bylaw commits an offence.</p> <p># Every person who commits an offence under this bylaw is liable to a penalty under the [insert title of relevant legislation].</p> <p># [Insert any specific offence or penalty provisions that are required by statute to be specified in the bylaw.]</p>	<p>The Bylaw Form Standard requires that every bylaw specify when a breach of a bylaw occurs, states the statute(s) that contain the penalties that may be imposed, and only specifies offence and penalty provisions where required by statute.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• Section 22AB(1)(b) Land Transport Act 1998 enables the prescription of fines not exceeding \$500 in a bylaw.</li> <li>• Section 163 LGA2002 to remove works in breach of a bylaw where authorised by a bylaw to do so.</li> </ul> <p>For the avoidance of doubt, statutory offences and penalties must not be summarised or restated in the bylaw unless the statute specifically requires it.</p> <p>The summary of offences and penalties is to be included in information only documents.</p> <p>This approach aims to ensure that only required provisions with minimal elaboration is included in the bylaw to ensure its legal robustness, while providing a summary of all the necessary provisions in information only documentation to ensure the bylaw is understood.</p>

**Table 7: Provisions that must not be used in the drafting of any bylaw**

<b>Matter</b> (no. of former councils & NZS using matter)	<b>Commentary</b>
<b>Officers (5)</b> Clause that typically relates to powers of officers, delegations, (appointment), impersonating an officer and liability of officers.	Drafters should not use provisions relating to the powers of officers, delegations (appointment), impersonating an officer and liability of officers.  Powers of officers and delegations are addressed in definition of "Council" and "Auckland Transport" in Table 2, "Enforcement" in Table 6 and attachment of delegations.  Offences for impersonating an officer is covered in the Crimes Act 1961, including section 228 dishonestly taking or using a document, section 240 obtaining by deception or causing loss by deception, section 257 using forged documents, and section 258 altering, concealing, destroying or reproducing documents with intent to deceive.  Liability of officers is addressed in legislation, such as section 43 of the Local Government Act 2002.
<b>Notices (5)</b> Clause that typically relates to how notices are to be served.	Drafters should not use provisions relating to serving of notices. Requirements for the service of notices or documents are provided for in a number of statutes in relation to specific matters (e.g. section 76 of the Dog Control Act 1996). Table 6 under "Enforcement" addresses this matter in relation to summarising statutory enforcement powers.  Other traditional uses of this provision relate to formal warnings (e.g. request to cease or rectify) and is an alternative to the use of statutory powers. The manner of service in this instance is a matter of best practice service delivery rather than prescription in a bylaw. Note: The Local Government Act 1974 and the Local Government Act 2002 do not prescribe requirements in relation to the service of notices or documents but the Land Transport Act 1998 does.  This does not preclude the use of formal warnings as a compliance and enforcement practice, simply that it does not need to be prescribed in a bylaw.
<b>Entry (3)</b> Clause typically related to statutory powers of officers to enter land.	Refer to "Enforcement" in Table 6.
<b>Suspending Licences (6)</b> Clause typically related to when a licence (permit) may be suspended.	Refer to "Licence" in Table 6.
<b>Fees (5)</b> Clause that typically related to how fees were set.	The power and manner by which fees about bylaw matters are set are prescribed in legislation (e.g. section 150 Local Government Act 2002) and does not need to included in any bylaw.  This Standard does however require an information-only attachment of the fees related to licences.
<b>Dispensation (6)</b> Clause typically related to a general power to waive compliance with any bylaw matter.	Drafters should not use a general power to waive compliance with any bylaw matter and instead rely on: (a) exemptions contained in a bylaw. (b) licence provisions in a bylaw that provide for matters requiring further assessment or inspection. (c) the bylaw amendment process. (d) enforcement discretion.
<b>Objections (1)</b> Clause typically about ability to object to decisions on licences.	Relates to and addressed under "Licence" in Table 6.
<b>Schedule of Changes (1)</b> Clause typically related to history of bylaw (e.g. changes).	Relates to history of bylaw and is addressed in information only history attachments as required by the Bylaw Structure Standard.
<b>Forms (1)</b> Clause typically related to clarifying that forms are not part of a bylaw.	Relates to and addressed under "Licence" in Table 6 and commentary on "Notices" in this Table.

# 5.0 BYLAW DRAFTING STANDARD

The Bylaw Drafting Standard aims to provide for the clear drafting of bylaws by prescribing general drafting standards, and prescribing specific drafting standards not contained in the Bylaw Administration Standard or Bylaw Structure Standard.

**Standard 33: The drafting of any bylaw matter must ensure every bylaw clause is definitive, meaningful, reasonable, able to be validated and enforceable and not ambiguous, vague, unenforceable, or require complicated measurement.**

This is critical in relation to bylaws about specific matters in Part 2 of the Bylaw Structure Standard because those bylaws establish the expected behaviours from which breaches are defined, enforced and penalised.

**Standard 34: The drafting of any bylaw matter must use the drafting in Tables 1, 2 and 6 for relevant bylaw matters and must use the drafting style in Table 1, 2 and 6 for similar bylaw matters.**

**Standard 35: The drafting of any bylaw matter must use the term “must” instead of “shall”.**

**Standard 36: Capital letters (high case letters) should only be used at the start of sentences and for proper nouns and the excessive use thereof should be avoided.** Example, use “this bylaw” instead of “this Bylaw”, “the council” instead of “Council” and “the local boards” instead of “the Local Boards”. However, it is correct to use “the Auckland Council” and “the Whau Local Board” as these are proper nouns.

**Standard 37: The drafting of any bylaw matter must use explanatory notes to identify any insertion, amendment or revocation of a bylaw clause in that part of the bylaw affected (in addition to the information only history of bylaw).** Example:

- 5.3 For the avoidance of doubt, this bylaw does not apply to the consumption or possession of liquor in a public place.  
*Explanatory Note: Clause 5.3 inserted by minute CL/APR/611/04, in force on 21 February 2011.*
- 5.3 For the avoidance of doubt, this bylaw does not apply to the consumption or possession of liquor in a public place subject to an on-licence issued under the Sale of Liquor Act 1989.  
*Explanatory Note: Clause 5.3 amended by minute CL/MAY/512/10, in force on 21 February 2011.*
- 5.3 [revoked]  
*Explanatory Note: Clause 5.3 revoked by minute CL/MAY/512/10, in force on 21 February 2011.*

**Standard 38: The drafting of any bylaw matter must comply with the principles advocated by the Parliamentary Counsel Office in relation to clear drafting, summarised as follows and attached in Appendix 4:**

**(1) Headings**

- (a) Summarise if possible, otherwise indicate specific topic
- (b) Keep brief:
- (c) Draft with an eye to use in contents:
- (d) Use liberally.

**(2) Sections** One coherent group of ideas per section:

- (a) Use the narrative style—avoid excessive cross-references:
- (b) Preferably no more than 5 subsections using the following (standard legislation style) format:

	Format	Example
Clause	#	1
Sub-clause	(#)	(1)
Sub-Sub-Clause	(abc)	(a)
List construction	- ; ; or / and .	... means- ... ; ... ; and ... .

- (c) Avoid going down to sub-sub-paragraphs.



(3) **Sentences** Get to the main point (from the reader's point of view) early:

- (a) Keep sentences short and simple—
  - (i) focus on verbs:
  - (ii) avoid nominalisations:
  - (iii) avoid passive constructions unless they are necessary
- (b) To convey the desired meaning:
  - (i) keep the subject and predicate close:
  - (ii) punctuate effectively.

(4) **Words** Use the simplest word that conveys the meaning:

- (a) Eliminate unnecessary words:
- (b) Do not use archaic language:
- (c) Always use gender-neutral language:
- (d) Define terms in a way that is truthful and helpful to the reader.

(5) **General** Be consistent:

- (a) Use a positive statement unless a negative one is better.

**Standard 39: In deciding whether matters may be regulated under delegation, particular regard must be had to the matters contained in section 13 Bylaws Act 1910.**

Matters may be regulated under delegation by a committee, local board or officer pursuant to a bylaw under section 151 Local Government Act 2002 or section 13 Bylaws Act 1910.

Decisions made pursuant to a bylaw are not required to use the special consultative procedure. That said, any decision must still comply with the general decision-making requirements of the Local Government Act 2002 or any policy on significance, and in particular whether the views of the persons affected by the decision are known and the extent to which those persons should be involved in the decision-making process. In effect, decisions made pursuant to a bylaw provide for the use of alternative consultation methods such as a form of limited notification or direct consultation with affected persons.

A decision may still be made to use the special consultative procedure in any case as a result of compliance with the general decision-making requirements of the Local Government Act 2002 or any policy on significance.

A primary test on whether a matter should be delegated is under section 13(2) Bylaws Act 1910 and relates to whether the matter to be delegated is so great as to be "unreasonable".

Examples of when providing for a matter to be regulated pursuant to a bylaw may not be unreasonable:

- (1) The matter relates to a decision in relation to a local issue for which alternative consultation methods would be more appropriate (e.g. local alcohol controls).
- (2) The matter relates to a decision in which the persons affected are known (e.g. technical standards for skin piercing procedures).
- (3) The matters relate to a decision which must comply with specific objective criteria contained in the bylaw.

**Standard 40: Bylaws must not refer to section 151 Local Government Act 2002 or section 13 Bylaws Act 1910.**

Opinions vary on whether section 151 Local Government Act 2002 in using the term "local authority by resolution" precludes a decision by anyone other than the Governing Body (meaning the benefits of this clause is that the decision need not be made using the special consultative procedure) and / or precludes a decision by anyone other than an individual. Consequently, bylaws should avoid referring to the either provision in the bylaw.

# 6.0 Related Documents

## Reports

- Determination Report for Bylaws About Bylaw Administration Matters; Item [insert agenda details]

## Publications

- Local Government New Zealand. The Knowhow Guide to the Regulatory and Enforcement Provisions of the Local Government Act 2002
- Parliamentary Counsel Office. Principles of Clear Drafting. Version 6.0 August 2009
- Standards New Zealand. New Zealand ZS Standard Model General Bylaws Part 1 – Introductory. NZS9201:Part1:2007.

## Legislation and Regulations

- Bylaws Act 1910
- Crimes Act 1961
- Interpretation Act 2009
- Local Government Act 1974
- Local Government Act 2002
- Local Government (Auckland Council) Act 2009
- Local Government (Auckland Transitional Provisions) Act 2010
- Local Government (Infringement Fees for Offences: Auckland Regional Council Navigation Safety Bylaw 2008) Regulations 2009

## Interim Bylaws

- Rodney District Council Chapter 1 Bylaw Administration
- Northshore City Council Part 1 General Provisions
- Waitakere City Council General Administration Bylaw 2010
- Auckland City Council Bylaw No. 1 Bylaw Administration 2009
- Manukau City Council Chapter 1 General Administration

**Appendix 1: Bylaw Form Template  
(Refer next page)**

[Page setup: margins 3 cm at top, bottom, left, right, gutter 0 cm; orientation portrait; paper A4]

**[Insert coat of arms]**

**[Insert title] Bylaw [insert year first made]**

(as at [insert date last updated])

*[Insert Te Reo title]*

**[Insert “Governing Body of Auckland Council” or “Governing Body of  
Auckland Transport]**

**Resolution [“in Council” or “of Board”]**

**[Insert date of resolution]**

Pursuant to [insert statutory provision that authorises the making of the bylaw], the [insert “Governing Body of Auckland Council” or “Governing Body of Auckland Transport”], [insert “makes the following bylaw” or “revokes and replaces bylaws about [insert matter] matters with the following bylaw”].

**Contents**

<b>Clause</b>	<b>Description</b>	<b>Page</b>
1	Title.....	
2	Commencement.....	
3	Application.....	

**Part 1**  
**Preliminary provisions**

4	Purpose.....	
5	Interpretation.....	

**Part 2**  
**[Insert bylaw requirements heading]**

[Insert clause(s) and page number(s)]

**Part 3**  
**Controls and licences**

[Insert clause(s) and page number(s)]

**Part 4**  
**Enforcement, offences and penalties**

[Insert clause(s) and page number(s)]

**Part 5**  
**Savings and transitional provisions**

[Insert clause(s) and page number(s)]

**Schedules**

[Insert any schedule(s) and page number(s)]

**1 Title**

(1) This bylaw is the [insert bylaw title].

**2 Commencement**

[Option 1]

(1) This bylaw comes into force on [insert commencement date (dd month yyyy)].

[Option 2]

(1) This bylaw comes into force [insert period] after the date on which this bylaw receives the resolution in council.

[Option 3]

(1) [Insert "Clause xx comes" or "Clauses xx come"] into force [insert period] after the date on which this bylaw receives the resolution in council.

(2) The rest of this bylaw comes into force on [insert commencement date (dd month yyyy)].

**3 Application**

(1) This bylaw applies to the [insert geographic area that the bylaw applies to. E.g. "district of the Auckland Council", "region of the Auckland Council", "xyz local board area"].

**Part 1  
Preliminary provisions**

**4 Purpose**

(1) The purpose of this bylaw is to [insert purpose] by [insert primary means].

**5 Interpretation**

(1) In this bylaw, unless the context otherwise requires, -  
[Insert term] means [insert definition].

(2) Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without any formality.

(3) The Interpretations Act 1999 applies to this Bylaw.

**Part 2  
[Insert specific bylaw matters]**

**6 [Insert specific bylaw matters]**

(1) [Insert specific bylaw matters]

[If the bylaw is made under more than one statute insert "Explanatory note: This clause is made under [insert relevant legislative provision]."]

**Part 3**

**Controls and licences**

# **[Insert specific provision]**

(1) [Insert specific provision]

**Part 4**

**Enforcement, offences and penalties**

# **[Insert specific enforcement powers]**

(1) [Insert specific enforcement powers]

# **[Insert specific penalty]**

(1) [Insert specific penalty]

**Part 5 [if relevant to bylaw]**

**Savings and transitional provisions**

# **[Insert specific provision]**

(1) [Insert specific provision]

**Schedules [if relevant to bylaw]**

# Additional information to [insert title] Bylaw [insert year first made]

This document is for information purposes only and does not form part of this bylaw. It contains matters made pursuant to this bylaw, and information to help users understand, use and maintain this bylaw. The document may be updated at any time.

## Contents

Section	Description	Page
1	History of bylaw .....	
2	Related documents .....	
3	Delegations.....	
4	Register of controls .....	
5	Licences.....	
6	Enforcement powers .....	
7	Offences and penalties .....	
8	[Insert other relevant matters].....	
#	Monitoring and review .....	



**Section 1: History of bylaw**

Action	Description	Date of decision	Decision reference	Commencement

**Section 2: Related documents**

Title	Description	Location

**Section 3: Delegations**

Clause	Function, duty or power to be delegated	Delegated authority	Date of delegation decision	Decision reference	Commencement of delegation

**Section 4: Register of controls**

Action	Description	Date of decision	Decision reference	Commencement

**Section 5: Licence process**

Action	Description	Date of decision	Decision reference	Commencement

### Section 6: Enforcement powers

Legislative provision	Description

### Section 7: Offences and penalties

Legislative provision	Description of offence	Fine	Infringement fee	Other penalty

### Section 8: Monitoring and review

Performance indicator	Measured by	Target

## Appendix 2 - Bylaw Standard Quick Reference Checklist

This appendix contains all the standards in this document for ease of reference.

Standard	Check
<p>The Auckland Bylaw Standard is a regulatory policy governing the making of bylaws. For bylaws of the Auckland Council and Auckland Transport, this standard will be used to contribute to the determination of the most appropriate form of bylaw.</p> <p>For bylaws proposed by a local board or the Auckland water organisation under the Local Government (Auckland Council) Act 2009, this standard is a policy for the purposes of sections 24(2)(b) and section 61(2)(d) of that Act. This means that any proposed bylaw must not be inconsistent with this standard. The Planning, Policy and Bylaws Unit of the Auckland Council is responsible for developing and maintaining this standard.</p> <p>The Planning, Policy and Bylaws Unit (in relation to bylaws made by the Auckland Council) or Regulation and Standards Unit (in relation to bylaws made by Auckland Transport) are independently responsible for ensuring all bylaws are developed in accordance with this standard.</p>	
<p>Standard 1: In considering whether to make, amend or revoke a bylaw, or in reviewing a bylaw the following requirements must be met (including with all necessary modifications where not required by the bylaw empowering legislation):</p> <ol style="list-style-type: none"> <li>(1) The decision-making and consultation requirements in Part 6 of the Local Government Act 2002 must be complied with.</li> <li>(2) The procedure for making bylaws and review of bylaw requirements in Part 8 of the Local Government Act 2002 (sections 155 to 160) must be complied with, including the use of the special consultative procedure.</li> <li>(3) The views of local boards must be sought prior to the commencement of the special consultative procedure.</li> <li>(4) The administration, implementation and monitoring requirements must be determined.</li> <li>(5) Before any decision is made to commence the special consultative procedure and before a decision is made to make the bylaw following the special consultative procedure submission period, the Manager Planning, Policy and Bylaws in relation to a bylaw made by the Auckland Council and the Manager Regulation and Standards in relation to a bylaw made by Auckland Transport, must approve the bylaw form.</li> </ol>	
Standard 2: In drafting any bylaw, the drafting standards contained in Table 1 and the structure contained in Appendix 1 (illustrated in Table 1) must be followed without modification.	
Standard 3: Title must as short as possible. This is particularly important because infringement regulations include the bylaw title	
Standard 4: The title must sum up the issue the bylaw addresses.	
Standard 5: The title must not include the term "private place", "public place", or variations of the same.	
Standard 6: The title must not include reference to "Governing Body of Auckland Council", "Governing Body of Auckland Transport", "Auckland Council", "Local Board", "Auckland Water Organisation", or variations of the same.	
Standard 7: The title must be the same as that stated at the start of the bylaw. No long or short title is to be used.	
Standard 8: Purpose must be concise, relate to the problem identified through the bylaw development process and statutory empowerment, and state only the primary means to achieve the purpose.	
Standard 9: The definitions in Table 2 must be used in the interpretation clause where relevant.	
Standard 10: Part 2 must contain the behaviours required of persons.	
<p>Standard 11: Part 2 may contain any of the following matters:</p> <ol style="list-style-type: none"> <li>(1) Any framework that allows the making of specific controls under delegated authority (the detail of which is addressed in Part 3).</li> <li>(2) Any matters that require a licence to be obtained.</li> </ol>	
<p>Standard 12: Part 2 must not contain:</p> <ol style="list-style-type: none"> <li>(1) Any matter addressed in another part of the Bylaw Structure Standard, except that where a bylaw is of a size or complexity that does not justify a division between Part 2 and Part 3, Part 3 provisions can be included in Part 2.</li> <li>(2) Any matter contrary to the Bylaw Administration Standard.</li> </ol>	
Standard 13: The detail of any framework provided in Part 2 must be detailed in Part 3.	
Standard 14: The licence provisions in Table 6 must be used if a licence is required in Part 2 of any bylaw.	
Standard 15: The statutes used to enforce a bylaw, and any enforcement powers required by statute to be specified in a bylaw must be included in Part 4.	
Standard 16: The statutory enforcement powers summarised in Table 6 must be used where relevant.	
Standard 17: Every bylaw must specify when a breach of a bylaw occurs, state the statute(s) that	

Standard	Check
contain the penalties that may be imposed, and specify offence and penalty provisions only where required by statute	
Standard 18: The statutory penalties summarised in Table 6 must be used where relevant.	
Standard 19: "Action" words to be used are "Make", "Amend", "Revoke", "Replace".	
Standard 20: Every function, duty and power of a bylaw must be listed, and where not delegated, must under "Authority" state "Governing body of the Auckland Council" or "Governing body of Auckland Transport".	
Standard 21: Controls made by officers under delegated authority must use the template prescribed in Appendix 3.	
Standard 22: The current controls referred to in the register of controls table may be included in this section. If they are included, each control must be linked to the table so that it is easy to identify when the decision reference and commencement date.	
Standard 23: Licence processes made by officers under delegated authority must use the template prescribed in Appendix 3.	
Standard 24: The current licence process referred to in the licence process table may be included in this section. If it is included, use explanatory notes to identify any insertion, amendment or revocation of any part of the licence process in a similar manner to that required by Standard 37.	
Standard 25: All the relevant statutory powers able to be used to enforce the bylaw must be identified as part of the bylaw development process and summarised here.	
Standard 26: All offences and penalties under the bylaw must be identified as part of the bylaw development process and summarised here. The description of offence must be concise and relate to the clause that identifies the breach of the bylaw.	
Standard 27: In drafting any bylaw, the bylaw administration matters contained in Table 2 (definitions) and Table 6 (licences, enforcement, offences and penalties) must be used where relevant. Relevant matters may only be modified due to: (1) Conflict with legislation. Where a relevant definition in this section conflicts with a relevant legislative definition, the legislative definition must be used. (2) Conflict with a decision of a Court of New Zealand. For the avoidance of doubt, any relevant bylaw administration matter must not be modified due to drafting preferences and styles.	
Standard 28: In drafting any bylaw, the definitions contained in Table 2 must be used in the drafting of every bylaw where the definition is relevant to the bylaw matter (refer to exemptions in Standard 27).	
Standard 29: In drafting any bylaw, the definitions and terms contained in Table 3 must not be used in the drafting of any bylaw.	
Standard 30: That the interpretation matters contained in Table 5 must not be used in drafting any interpretation section of any bylaw.	
Standard 31: The licence, enforcement, offence and penalty matters contained in Table 6 must be used in the drafting of every bylaw where relevant.	
Standard 32: The bylaw administration matters contained in Table 7 must not be used in the drafting of any bylaw.	
Standard 33: The drafting of any bylaw matter must ensure every bylaw clause is definitive, meaningful, reasonable, able to be validated and enforceable and not ambiguous, vague, unenforceable, or require complicated measurement.	
Standard 34: The drafting of any bylaw matter must use the drafting in Tables 1, 2 and 6 for relevant bylaw matters and must use the drafting style in Table 1, 2 and 6 for similar bylaw matters.	
Standard 35: The drafting of any bylaw matter must use the term "must" instead of "shall".	
Standard 36: Capital letters (high case letters) should only be used at the start of sentences and for proper nouns and the excessive use thereof should be avoided.	
Standard 37: The drafting of any bylaw matter must use explanatory notes to identify any insertion, amendment or revocation of a bylaw clause in that part of the bylaw affected (in addition to the information only history of bylaw).	
Standard 38: The drafting of any bylaw matter must comply with the principles advocated by the Parliamentary Counsel Office in relation to clear drafting, summarised as follows and attached in Appendix 4:	
Standard 39: In deciding whether matters may be regulated under delegation, particular regard must be had to the matters contained in section 13 Bylaws Act 1910.	
Standard 40: Bylaws must not refer to section 151 Local Government Act 2002 or section 13 Bylaws Act 1910.	

**Appendix 3 – Officer Delegated Control and  
Licence Process Decision Template**



## Memo

(Type date here)

To: (Type recipient/s name **here**) Manager Planning, Policy and Bylaws  
cc: (Type name/s **here**. Delete this line if not required)  
From: (Type sender/s name and position who has delegated authority **here**)

---

Subject: (Type subject **here** e.g. Delegated Authority Control / Licence Process pursuant to Clause # of the XYZ Bylaw)

That-

- (1) pursuant to the delegation from the Governing Body of the (Type “Auckland Council” or “Auckland Transport” here)
- (2) to the (Type delegated authority position here)
- (3) under (Type standing order reference here)
- (4) in relation to (Type the control, or licence process here)
- (5) under clause (Type clause here) of the (Type bylaw title here)

The following (Type “control”, or “licence process” here) is (Type “made”, “amended”, “revoked”, “replaced” here) as follows:

(Insert matters here)

Signature: (Appears at the end of document, delete if not required)  
(Type name here)  
(Type position here)

Encl [attach any attachments, e.g. maps]

**Appendix 4 – Parliamentary Counsel  
Principles of Clear Drafting**

[To be inserted <http://www.pco.parliament.govt.nz/assets/Uploads/pdf/clear-drafting.pdf>.  
Available at Committee on request]