



## **Cemeteries and Crematoria Bylaw 2014**

### **Te Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku 2014**

(Last updated: 31 July 2014)

**Governing Body of Auckland Council**

**Resolution in Council**

**On  
31 July 2014**

Pursuant to the Local Government Act 2002 and the Burial and Cremation Act 1964, the Governing Body of Auckland Council makes the following bylaw.

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**1 Title**

- (1) This bylaw is the Cemeteries and Crematoria Bylaw 2014.

**2 Commencement**

- (1) This bylaw comes into force on 1 November 2014.

**3 Application**

- (1) This bylaw applies to Auckland.

**Part 1  
Preliminary provisions**

**4 Purpose**

- (1) The purpose of this bylaw is to regulate activities to maintain, preserve, and embellish council owned or operated cemeteries and crematoria.

**5 Interpretation**

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

**Cemetery** means any land vested in or under the control of the council from time to time, and dedicated as a cemetery.

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

- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable statutes, regulations, bylaws, and rules of law.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Burial and Cremation Act 1964 and used in this bylaw, but not defined, has the meaning given by that Act.
- (4) Any explanatory notes are for information purposes, do not form part of this bylaw, and may be inserted, amended or revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

**Part 2  
Regulation of cemeteries and crematoria**

**6 Cemeteries and Crematoria code of practice**

- (1) The council may make, amend or revoke a code of practice that establishes rules for using council owned or operated cemeteries and crematoria.

- (2) Without limitation, a code of practice may include rules on:
- a) Interment;
  - b) Disinterment;
  - c) Built structures;
  - d) Ground maintenance; and
  - e) Records.
- (3) Every person must comply with any code of practice made under this bylaw.

## **7 Procedure for making a code of practice**

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

## **8 Fees**

- (1) The council may prescribe fees for matters relating to council owned or operated cemeteries and crematoria.

## **9 Exemptions**

- (1) A person is not in breach of this bylaw if their act or omission was in compliance with the directions of an authorised officer of the council.

## **Part 3 Enforcement, removal of things, offences, penalties**

## **10 Enforcement**

- (1) The council may use its powers under the Local Government Act 2002 and the Burial and Cremation Act 1964 to enforce this bylaw.

#### **11 Removal of material or things**

- (1) The council may require any person by written notice to remedy any breach of this bylaw.
- (2) In addition to the powers conferred on it by any other enactment, the council may remove or cause to be removed from any cemetery or crematoria any material or thing in breach of the bylaw.
- (3) The council may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing.

#### **12 Removal of construction**

- (1) The council may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this bylaw and may recover any costs of removal or alteration from the person who committed the breach.

#### **13 Offences and penalties**

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and / or the Burial and Cremation Act 1964.

### **Part 4**

#### **Savings, transitional provisions and revocation**

#### **14 Savings and transitional provisions**

- (1) This clause applies to:
- a) Rodney District Council General Bylaw: 1998 Chapter 2 Cemeteries;
  - b) North Shore City Council [Part 10] Cemeteries and Crematorium Bylaw 2000;
  - c) Auckland City Council Bylaw No. 7 Cemeteries 2008;
  - d) Waitakere City Council Public Places Bylaw 2010 Part 4 [12] Cemeteries and Crematoria;
  - e) Waitakere City Council Urupa (Māori Burial Site) Bylaw 2010;
  - f) Manukau City Council Chapter 4 Cemeteries and Crematoria of the Manukau City Consolidated Bylaw 2008;
  - g) Papakura District Council Cemeteries Bylaw 2008;
  - h) Franklin District Council Cemeteries Bylaw 2008

- (2) Any resolution or other decision made under the bylaws referred to in subclause (1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the council under this bylaw.
- (3) Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in subclause (1) continues in force but:
  - a) expires on the date specified in that approval; or
  - b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
  - c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for a consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in subclause (1) that was filed the day before on which this bylaw commences must be dealt with by the council as if it had been made under this bylaw.

## **15 Revocations**

- (1) The bylaws referred to in clause 14(1) are revoked.

## **Additional Information to Cemeteries and Crematoria Bylaw 2014**

**This document contains matters for information purposes only and does not form part of any bylaw. They include matters made pursuant to a bylaw and other matters to assist in the ease of understanding, use and maintenance.**

The information contained in this document may be updated at any time.

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## Section 1

### History of Bylaw

Action	Description	Date of Decision	Decision Reference	Commencement
Make	<p>Following cemeteries and crematoria bylaws in force on 31 Oct 2010 deemed to have been made by Auckland Council</p> <ul style="list-style-type: none"> <li>• Rodney District Council General Bylaw: 1998; Chapter 2 Cemeteries</li> <li>• North Shore City Council [Part 10] Cemeteries and Crematorium Bylaw 2000</li> <li>• Auckland City Council Bylaw No. 7 Cemeteries 2008</li> <li>• Waitakere City Council Public Places Bylaw 2010 Part 4 [12] Cemeteries and Crematoria</li> <li>• Waitakere City Council Urupa (Māori Burial Site) Bylaw 2010</li> <li>• Manukau City Council Chapter 4 Cemeteries and Crematoria of the Manukau City Consolidated Bylaw 2008</li> <li>• Papakura District Council Cemeteries Bylaw 2008</li> <li>• Franklin District Council Cemeteries Bylaw 2008</li> </ul>	01 Nov 2010	Section 63 Local Government (Auckland Transitional Provisions) Act 2010	01 Nov 2010
Revoke	<ul style="list-style-type: none"> <li>• Rodney District Council General Bylaw: 1998; Chapter 2 Cemeteries</li> <li>• North Shore City Council [Part 10] Cemeteries and Crematorium Bylaw 2000</li> <li>• Auckland City Council Bylaw No. 7 Cemeteries 2008</li> <li>• Waitakere City Council Public Places Bylaw 2010 Part 4 [12] Cemeteries and Crematoria</li> <li>• Waitakere City Council Urupa (Māori Burial Site) Bylaw 2010</li> <li>• Manukau City Council Chapter 4 Cemeteries and Crematoria of the Manukau City Consolidated Bylaw 2008</li> <li>• Papakura District Council Cemeteries Bylaw 2008</li> <li>• Franklin District Council Cemeteries Bylaw 2008</li> </ul>	31 July 2014	GB/2014/67	1 November 2014
Make	Cemeteries and Crematoria Bylaw 2014	31 July 2014	GB/2014/67	1 November 2014



## Section 2

### Related Documents

Document Title	Description of Document	Location of Document
Cemeteries and Crematoria Code of Practice	Sets rules for using council owned or operated cemeteries and crematoria	www.aucklandcouncil.govt.nz
Decision Minutes and Agenda	Decisions on submissions to proposed cemeteries and crematoria bylaw	www.aucklandcouncil.govt.nz
Hearings Report	Background and summary of submissions to proposed cemeteries and crematoria bylaw	www.aucklandcouncil.govt.nz
Cemeteries and Crematoria Bylaw Review Statement of Proposal	Provides background to the cemeteries and crematoria code of practice and bylaw	www.aucklandcouncil.govt.nz
Long Term Plan	Outlines financial plans	www.aucklandcouncil.govt.nz
Annual Plan	Sets cemeteries and crematoria fees	www.aucklandcouncil.govt.nz
The Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
The Burial and Cremation Act 1964	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Local Government (Auckland Transitional Provisions) Act 2010	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	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

## Section 3

### Delegations

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
All	All powers, duties and functions.	Cemetery Managers – Tier 6	31 July 2014	GB/2014/67	1 November 2014
		Waikumete Urupa Komiti	31 July 2014	GB/2014/67	1 November 2014
8	Prescribe fees for matters relating to council owned or operated cemeteries	Regional and Specialist Parks Department – Tier 5 (Manager,	31 July 2014	GB/2014/67	1 November 2014

	and crematoria	Auckland Cemeteries)			
6	Make, amend, revoke codes of practice	Regulatory and Bylaws Committee (set regulatory policy)	31 July 2014	GB/2014/67	1 November 2014

## Section 4

### Enforcement Powers

Legislative Provision	Description of Legislative Provision
Part 8 of Local Government Act 2002	162 Injunctions restraining commission of offences and breaches of bylaws 163 Removal of works in breach of bylaws 164 Seizure of property not on private land 168 Power to dispose of property seized and impounded 175 Power to recover for damage by wilful or negligent behaviour 176 Costs of remedying damage arising from breach of bylaw 178 Enforcement officers may require certain information 186 Local authority may execute works if owner or occupier defaults 187 Recovery of cost of works by local authority
Part 8 of Burial and Cremation Act 1964	54AA Offences concerning doctor's certificate or certificate relating to stillbirth 54 Offences concerning burials 55 Unlawful exhumation 56 Offences concerning cremation 57 Trespass by animals

## Section 5

### Offences and Penalties

Clause	Description of Offence	Fine	Infringement Fee	Other Penalty
All	A person who fails to comply with Part 2 or Part 3 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and / or the Burial and Cremation Act 1964.	Under section 242 of the Local Government Act 2002 person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.  Under section 16 of the Burial and Cremation Act 1964, all bylaws made by a local authority under this Act shall be made in the same manner in all respects as if they were bylaws made pursuant to the Local Government Act.	Nil	