



Te Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku 2014 Cemeteries and Crematoria Bylaw 2014

(as at 25 February 2021)

made by the Governing Body of Auckland Council

in resolution GB/2014/67

on 31 July 2014

Bylaw made under sections [145](#) and [146](#) of the Local Government Act 2002 and sections [16](#) and [40](#) of the Burial and Cremation Act 1964.

Summary

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

The use of council cemeteries and crematoria can result in issues including ground maintenance problems from unsecured adornments, public safety risks from improperly installed monuments and distress from antisocial behaviour.

The purpose of this Bylaw is to minimise public safety risks, distress, nuisance, damage to property and heritage, and interference with ground maintenance and operational activities from the use of council cemeteries and crematoria by the public and contractors by –

- using a code of practice to regulate activities on council owned or operated cemeteries and crematoria in clause 6
- setting out that council may make a code of practice in clause 7
- enabling council to prescribe fees for matters relating to council owned or operated cemeteries in clause 7.

Other parts of this Bylaw assist with its administration by –

- stating the name of this Bylaw, when it comes into force and where it applies in clauses 1, 2 and 3
- stating the purpose of this Bylaw and defining terms in clauses 4 and 5
- referencing council's powers to enforce this Bylaw in clauses 8 and 9 and penalties in clause 10
- ensuring existing resolutions, approvals and other decisions under legacy bylaws and existing codes of practice continue to apply where relevant in Part 5.

Compliance with this Bylaw does not remove the need to comply with all other applicable statues, regulations, bylaws and rules of law. For example, the Burial and Cremation Act 1964.

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1 Title

- (1) This Bylaw is Te Ture ā-Rohe mo ngā Wāhi Tapu me ngā Whare Tahu Tupāpaku 2014 / the Cemeteries and Crematoria Bylaw 2014.

Clause 1 amended in accordance with Clause 2(2).

2 Commencement

- (1) This Bylaw comes into force on 1 November 2014.
- (2) Amendments to this Bylaw by resolution GB/2021/10 come into force on 01 March 2021.

Related information about amendments

Council decided on 25 February 2021 to make various amendments to the Bylaw. The majority of the amendments were to make the Bylaw easier to read. Key changes included clarifying wording, structure and related information notes.

A comparison of the Bylaw before and after the amendments can be viewed in Attachment B to Item 10 of the Auckland Council Governing Body meeting agenda dated 25 February 2021.

3 Application

- (1) This Bylaw applies to Auckland.

Part 1

Preliminary provisions

4 Purpose

- (1) The purpose of this Bylaw is to minimise public safety risks, distress, nuisance, damage to property and heritage, and interference with ground maintenance and operational activities from the use of council cemeteries and crematoria by the public and contractors.

Clause 4 amended in accordance with Clause 2(2).

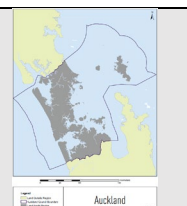
5 Interpretation

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

Auckland has the meaning given by [section 4\(1\)](#) of the Local Government (Auckland Council) Act 2009.

Related information

The Local Government (Auckland Council) Act 2009 enabled the Local Government Commission to determine Auckland's boundaries in a map titled [LGC-Ak-R1](#). The boundaries were formally adopted by [Order in Council](#) on 15 March 2010, and came into effect on 1 November 2010.



Council means the Governing Body of the Auckland Council or any person delegated or authorised to act on its behalf.

Related information about who can make decisions

Council has delegated –

- the making, amending and revoking of a code of practice in clause 7 to the Regulatory Committee as at 1 November 2014 (GB/2014/67)
- responsibility for ensuring compliance with this Bylaw to Auckland Cemeteries, and to both Auckland Cemeteries and the Waikumete Urupā Komiti in relation to Waikumete Cemetery as at 1 November 2014 (GB/2014/67)
- authority to prescribe fees for matters relating to council owned or operated cemeteries to Auckland Cemeteries as at 1 November 2014 (GB/2014/67).
- under the Te Tahua Taungahuru Te Mahere Taungahuru 2018 – 2028, The 10-year Budget Long-term Plan 2018 – 2028, Volume 2, 3.5(b) and (c), decision-making on –
 - open cemeteries in Auckland (excluding Aotea Great Barrier Island) to the Governing Body
 - operational cemeteries on Aotea Great Barrier Island to the Aotea Great Barrier Local Board
 - cemeteries that are no longer in regular active use and are functioning as local parks to local boards.

- (2) A term or expression defined in the [Burial and Cremation Act 1964](#) and used in this Bylaw has the same meaning as it has in that Act, unless defined differently in this Bylaw.

Related information about terms and expressions in the Burial and Cremation Act 1964

The Burial and Cremation Act 1964 (as reprinted on 24 October 2019) defines the terms [cemeteries and crematoria](#).

- (3) Related information does not form part of this Bylaw and may be inserted, changed or removed without any formality.
- (4) The [Interpretation Act 1999](#) applies to this Bylaw.

Clause 5 amended in accordance with Clause 2(2).

Part 2

Activities in council cemeteries and crematoria

6 A person must comply with any cemeteries and crematoria code of practice

- (1) A person must comply with any code of practice for council owned or operated cemeteries or crematoria made in accordance with clause 7.
- (2) However, clause 6(1) does not apply to any person acting in compliance with a lawful direction of council.

Related information about council's code of practice

- Any code of practice applies to both open and closed council owned or operated cemeteries and crematoria.
- Council owns and operates 29 open cemeteries and 25 closed cemeteries, including three crematoria. A full list of these cemeteries and crematoria can be found on council's [website](#).
- More information can be found on council's website about council's [code of practice](#) and [fees](#) relating to council owned or operated cemeteries and crematoria.

Clause 6 amended in accordance with Clause 2(2).

Part 3

Controls

7 Council may make a cemeteries and crematoria code of practice

- (1) Council may make a code of practice and set fees to regulate activities on council owned or operated cemeteries and crematoria.
- (2) Any code of practice made under clause 7(1) may prescribe rules and set fees for one or more of the following purposes –
 - (a) interment;
 - (b) disinterment;
 - (c) built structures;
 - (d) ground maintenance;
 - (e) records; and
 - (f) any other matters council considers relevant and reasonably necessary to achieve the purpose of the Bylaw.

Related information about the making of controls

- Council has delegated the making, amending and revoking of codes of practice by resolution under clause 7 to the Regulatory Committee as at 1 November 2014 (GB/2014/67).
- To make a decision, council must comply with the decision-making requirements under [Subpart 1 of Part 6](#) of the Local Government Act 2002.

Clause 7 amended in accordance with Clause 2(2).

Part 4

Enforcement powers, offences and penalties

8 Council can use statutory powers and other methods to enforce this Bylaw

- (1) Council may use its powers under the [Burial and Cremation Act 1964](#) and [Local Government Act 2002](#) to enforce this Bylaw.

Related information about enforcement

- Council powers under the **Burial and Cremation Act 1964** (as reprinted on 24 October 2019) and **Local Government Act 2002** (as reprinted on 26 March 2020) include court injunction ([section 162](#)), removal of works ([section 163](#)), seizure and disposal of property (sections [164](#), [165](#), [168](#)), powers of entry (sections [171](#), [172](#), [173](#)), cost recovery for damage (sections [175](#), [176](#)) and power to request name and address (section [178](#)).
- Council can also use other methods as a service provider to encourage compliance, for example providing advice, information or warnings, or trespassing a person.

Clause 8 replaced in accordance with Clause 2(2).

9 Removal of materials or things

- (1) Council may under [section 163](#) of the Local Government Act 2002, remove or alter any material or thing in breach of this Bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Clause 9 replaced in accordance with Clause 2(2).

10 A person can be penalised for not complying with this Bylaw

- (1) A person who fails to comply with Part 2 of this Bylaw commits an offence and is liable to a penalty under the [Burial and Cremation Act 1964](#) or the [Local Government Act 2002](#).

Related information about penalties

A person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000 under [section 242](#) of the Local Government Act 2002 (as reprinted on 26 March 2020). Council has chosen not to set fines in this Bylaw at this time under the Burial and Cremation Act 1964.

Clause 10 replaced in accordance with Clause 2(2).

Part 5

Savings and transitional provisions

11 Existing resolutions, approvals and other decisions continue to apply

- (1) This clause applies to things resolved, made or approved under –
- (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) Every resolution or other decision made continues to apply until replaced or revoked by council.
- (3) Every approval granted that applied on 31 May 2021 continues to apply until the expiration date specified in that approval or until replaced or revoked by council.

Clause 11 replaced in accordance with Clause 2(2).

12 Existing code of practice continues to apply

- (1) This clause applies to any code of practice made under this Bylaw prior to amendments in clause 2(2) coming into force.
- (2) Every code of practice made continues to apply as if made after the amendments to this Bylaw until replaced or revoked by council, whichever comes first.

Clause 12 replaced in accordance with Clause 2(2).

13 Existing inquiries to be completed under this Bylaw

- (1) Any compliance or enforcement action by council under this Bylaw that was not completed prior to amendments in clause 2(2) coming into force will continue to be actioned under this Bylaw.

Clause 13 replaced in accordance with Clause 2(2).

Related information, Bylaw history

Date	Description
01 November 2010	Made legacy bylaws about cemeteries and crematoria ¹ (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
01 November 2010	Commencement of legacy bylaws about cemeteries and crematoria (Section 63 Local Government (Auckland Transitional Provisions) Act 2010)
19 March 2014	Review of legacy bylaws about cemeteries and crematoria completed (RBC/2014/15)
27 March 2014	Proposal to make new bylaw about cemeteries and crematoria and to revoke legacy bylaws (GB/2014/29)
31 July 2014	Made the Auckland Council Cemeteries and Crematoria Bylaw 2014 (GB/2014/67)
19 November 2014	Public notice of making of the Auckland Council Cemeteries and Crematoria Bylaw 2014 and revocation of legacy bylaws
01 November 2014	Commencement of Auckland Council Cemeteries and Crematoria Bylaw 2014 and revocation of legacy bylaws (GB/2014/67)
11 April 2019	Review of Auckland Council Cemeteries and Crematoria Bylaw 2014 completed (REG/2019/20)
24 September 2020	Proposal to amend the Auckland Council Cemeteries and Crematoria Bylaw 2014 (GB/2020/108)
25 February 2021	Amended the Auckland Council Cemeteries and Crematoria Bylaw 2014 (GB/2021/10)
01 March 2021	Commencement of amendments to the Auckland Council Cemeteries and Crematoria Bylaw 2014 (GB/2021/10)
May 2021	Public notice of amending the Auckland Council Cemeteries and Crematoria Bylaw 2014.

¹ Legacy bylaws made: Auckland City Council No. 7 Cemeteries Bylaw 2008, Franklin District Council Cemeteries Bylaw 2008, Chapter 4 (Cemeteries and Crematoria) of the Manukau City Consolidated Bylaw 2008, Part 10 (Cemeteries and Crematorium) of the North Shore City Council Bylaw 2000, Papakura District Council Cemeteries Bylaw 2008, Chapter 2 (Cemeteries) of the Rodney District Council General Bylaw 1998, Part 4 (Cemeteries and Crematoria) of the Waitakere City Council Public Places Bylaw 2010 and Waitakere City Council Urupa (Māori Burial Site) Bylaw 2010.

Related information, next bylaw review

This Bylaw must be reviewed by 11 April 2029. If not reviewed by this date, the Bylaw will expire on 11 April 2031.

Find out more: **phone 09 301 0101**
or visit **aucklandCouncil.govt.nz**

