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# Proposed amendments to the Local Public Health Bylaw 2008

## Statement of Proposal

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# Summary of information

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Wellington City Council is reviewing its Local Public Health Bylaw 2008, which currently provides for the regulation of food premises and public swimming pools (public pools).

As part of that review, we propose to:

- no longer provide for the registration, inspection and grading of food premises because this is now comprehensively regulated by the Food Act 2014; and
- continue to provide for the registration of public pools because it provides a system that is working well to prevent the spread of disease via public pools, which in turn helps maintain a high level of trust in our public pools.

Drafting improvements to the public pools content are proposed to provide greater clarity and a simpler drafting style. The proposed amended bylaw is attached.

# Have your say

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The Council invites your views on the proposed amendments to the Local Public Health Bylaw 2008. To have your say on the proposed amendments you can:

- make a submission online at [wellington.govt.nz/have-your-say/consultations](http://wellington.govt.nz/have-your-say/consultations)
- download a submission form from the website and email it to [policy.submissions@wcc.govt.nz](mailto:policy.submissions@wcc.govt.nz)
- fill in the submission form and send it to: Freepost 2199, Local Public Health Bylaw Review 2019, PO Box 2199, Wellington 6140
- drop a completed submission form to our service centre at 101 Wakefield Street.

You can get more copies online at [wellington.govt.nz](http://wellington.govt.nz), the Service Centre, libraries, by emailing [policy.submission@wellington.govt.nz](mailto:policy.submission@wellington.govt.nz) or phoning 04 499 4444.

**Written submissions open on Tuesday 23 April 2019 and close at 5pm on Friday 24 May 2019.**

## Next steps

Please submit your feedback by 5pm on Friday 24 May 2019.

A report on feedback will be considered by the Council's City Strategy Committee in June, and the Council will make a final decision in June 2019.

# Statement of Proposal

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## **Proposed amendments to the Local Public Health Bylaw 2008**

Wellington City Council is reviewing its Local Public Health Bylaw 2008 (the bylaw), which currently provides for the regulation of food premises and public swimming pools (public pools).

### **Food premises**

#### *Current framework*

The current bylaw provides a registration, inspection and grading system for food premises.

The bylaw also has a stand-alone clause about businesses who hire out food utensils, requiring them to clean utensils using a particular method.

#### *Reason for proposed changes to food premises content*

When the bylaw was passed the Food Act 1981 and the Food Hygiene Regulations 1974 provided the wider legislative framework - and the bylaw provided complementary detail about the registration, inspection and grading of food businesses.

This previous legislative framework has now been replaced by the Food Act 2014 (the new Food Act) and associated regulations. The new legislation provides a comprehensive regime for regulating the public health aspect of food businesses - including the aspects that were regulated by the bylaw.

Local authorities are now required under the new Food Act and the Local Government Act 2002 to amend or revoke any bylaws which are inconsistent with the new Food Act. The food premises content of the bylaw should therefore be revoked as there is no need to replicate the requirements of the new Food Act, and to do so is considered inconsistent.

Of note, the Council continues to have a significant role because the Council is an approved authority under the new Food Act. In this role that Council must:

- maintain a register of food businesses;
- conduct verification of businesses to ensure each food business has an appropriate risk based measure for their type of business; and
- ensure that the risk based measure is being appropriately followed.

## **Proposed change 1: Revoke the bylaw content about the registration, inspection, and grading of food premises.**

#### *Reason for proposed changes to utensil hire*

Clause 2.4 of the bylaw is about how to clean utensils that are hired out. The Council considers this provision is no longer needed as it has never received any complaints about hired utensils requiring reliance on the clause, or has any evidence of a problem that requires a bylaw response. If issues or risks to public health are reported in future, they could be considered by the Council under other legislation (e.g. the Health Act 1956).

## **Proposed change 2: Revoke the bylaw content related to the hire of utensils.**

Proposed changes one and two require all of Part 2 of the bylaw be revoked.

## **Public swimming pools (public pools)**

#### *Current framework*

The bylaw establishes a registration system for public pools, administered by the Council. Bylaw requirements are that all public pools be registered and display current certificates; premises and equipment must be kept clean; water quality must comply with the New Zealand Standard on Pool Water Quality (NZS5826:2000 - now 2010), and appropriate staff must hold NZQA Unit Standards in swimming pool water quality.

Some 30 pools are registered. Registration certificates are issued for a year, and a Council inspection is part of the registration process. The bylaw also has rules that children under eight must be actively supervised by a caregiver over age 16, and that signs must be displayed about a range of topics (e.g. supervision and disease prevention).

#### *Reason for continuing to regulate public pools through a bylaw*

The current framework for managing public pools is working as it provides a proactive system for the Council to work with pool operators to maintain pool water quality and prevent public health issues from arising. In the past year four compliance notices were issued to address and resolve issues related to hygiene and pool water quality.

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Some form of legislative tool is required in order to give the New Zealand Standard on Pool Water Quality (NZS5826:2010) legal force. This is the Standard that officers use to ensure that public pools are of an acceptable standard.

Public pools cannot be regulated under the Health Act 1956 (clause 120) and the Health (Registration of Premises) Regulations 1966, which provide a framework for regulating premises used for certain purposes (e.g. lodging houses, hairdressers and funeral director parlours). This is because public pools are not listed as a class of premises in respect of which regulations can be made.

Other options, such as revocation of the bylaw, could lead to a reactive system, based on addressing any issues that did arise. Issues could include an outbreak of disease and related health risks and costs. There could also be reduced public confidence in our public pools, and this could undermine the positive contribution they make to community health and wellbeing.

The Council therefore considers that a bylaw continues to be the most appropriate way of addressing public health issues at public pools, and the current framework is working well.

#### *Drafting improvements*

Drafting improvements are proposed to bring the bylaw in line with modern, simpler drafting practice. While no changes to Council's practice are proposed, it is recognised on review that some aspects of the bylaw were ambiguous and could be made clearer.

Draft new clause 7.2 provides clarity about the rules for actively supervising children at pools. Council officers will review this text during the consultation period to ensure it aligns with, and does not duplicate, health and safety legislation and pool safety regulation already in place.

### **Proposed change 3: Introduce drafting improvements for clarity.**

The proposed amended bylaw, the Public Health Bylaw (Public Pools) is provided in this statement of proposal.

A copy of the current bylaw can be viewed online [www.wellington.govt.nz/your-council/plans-policies-and-bylaws/bylaws/other-bylaws/local-public-health-bylaw-2008](http://www.wellington.govt.nz/your-council/plans-policies-and-bylaws/bylaws/other-bylaws/local-public-health-bylaw-2008)

### **Are there any other public health issues which should be regulated by this bylaw?**

The Council has also considered, as part of its review, whether other public health issues should be regulated by the bylaw. The Auckland City Council Public Health Bylaw covers all activities that involve contact with the skin, for example, the health and beauty industry. Hutt City Council is currently consulting on a bylaw covering this industry.

Wellington City Council is aware of concerns raised by Regional Public Health about the beauty and nail industry. Their concerns include: if there is sufficient understanding about blood borne viruses and how they are spread and controlled; understanding about protection from Hepatitis B infection; understanding about cleaning, disinfecting, sterilising and hygienically storing instruments, and are also about written infection control protocols in nail and beauty salons.

The Council welcomes feedback from the nail and beauty industry and the community on this matter and will consider whether a bylaw is an appropriate response.

# Proposed amended Public Health Bylaw (Public Pools)

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## Introduction

This bylaw is made under section 145 of the Local Government Act 2002 and section 64 of the Health Act 1956. The bylaw was adopted on 1 July 2008 and amended on 1 July 2019 (subject to Council approval).

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### 1. Purpose

- 1.1 The purpose of this bylaw is to promote, protect and maintain public health and safety at public swimming pools.

### 2. Interpretation

- 2.1 In this bylaw, unless the context otherwise requires—

**authorised officer** means an enforcement officer authorised under the Local Government Act 2002, a public health inspector authorised under the Health Act 1956, or any other person appointed as an authorised officer by Council for the purposes of administering and enforcing this bylaw

**actively supervised** means watching any dependent child at all times and being able to provide immediate assistance

**certificate of registration** means a certificate issued by the Council in accordance with clause 3.3 of this bylaw

**operator** means any person who operates a public pool

**public pool** means a water-retaining structure, wholly or partially of artificial construction and

generally having a circulation and filtration system, designed for recreational, training or therapeutic use and includes commercial, school, institutional, club, hospitality, community, and local authority pools. It does not include pools for domestic use only.

- 2.2 Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.

### 3. Public pools to have certificate of registration

- 3.1 Any person who operates a public pool must:

- (a) hold a valid and unexpired certificate of registration; and
- (b) clearly display the certificate at the principal entrance or reception of the pool so as to be readily visible to the public to the satisfaction of an authorised officer.

- 3.2 An application for a certificate of registration for a public pool must be made:

- (a) on the form provided by the Council for that purpose;
- (b) include all information required; and
- (c) be signed by the operator.

- 3.3 The Council may issue a certificate of registration for a public pool, with or without conditions, having regard to:

- (a) the results of any inspection of the public pool by an authorised officer;
- (b) whether water quality complies with the New Zealand Standard on Pool Water Quality (NZS5826:2010) and, if not, the extent of any non-compliance;
- (c) whether there has been any non-compliance with this bylaw; and
- (d) whether at least one person involved in water treatment and testing of the pool has successfully completed training from a registered New Zealand Qualifications Authority (NZQA) training establishment covering *Unit Standard 20046 monitor pool water quality and store pool water treatment chemicals*.

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3.5 A certificate of registration expires 12 months from date of issue unless otherwise provided by condition.

3.6 A certificate is personal to the operator and is not transferable.

#### **4. Premises and equipment to be clean**

4.1 All public pool areas and associated facilities and equipment must be maintained in a clean and hygienic condition.

#### **5. Compliance with pool water quality standard**

5.1 The operator of a public pool must ensure that the pool and premises comply with the New Zealand Standard on Pool Water Quality (NZS 5826:2010).

5.2 The operator of a public pool must ensure that, at all times during the currency of a certificate, at least one person who is involved in water treatment and testing of the pool has successfully completed training from a registered NZQA training establishment covering *Unit Standard 20046 monitor pool water quality and store pool water treatment chemicals*.

#### **6. Children to be supervised**

6.1 Children under eight years are not permitted in public pool premises unless actively supervised by a caregiver at least 16 years of age.

#### **7. Signs to be displayed**

7.1 At all times that a public pool is operated, the operator of the pool must display signage relating to appropriate behaviour, supervision, safety and disease prevention measures.

7.2 Safety signage must explain that:

- (a) all children under 5 years old must be kept within arms' reach of a caregiver aged 16 or over; and
- (b) all children 5 and over, and under 8 years old, must be actively supervised by a caregiver aged 16 or over.

7.3 The signage must be in full and unobscured view to the public and displayed at:

- (a) the principal entrance or reception of the pool; and
- (b) any other public areas at the pool, as may be required by an authorised officer.

#### **8. Fees**

8.1 The Council may by resolution set fees and charges to be payable for functions undertaken by the Council under this bylaw.

#### **9. Notices to remedy public health risks**

9.1 An authorised officer may issue a written notice to an operator requiring that the operator carry out any specified corrective action or otherwise undertake any action required to comply with this bylaw or address a public health risk at a public pool.

9.2 If the operator of a public pool does not comply with the written notice an authorised officer may initiate a review of the relevant registration. As a result of that review the officer may:

- (a) suspend the certificate of registration;
- (b) amend or impose additional conditions of registration; or
- (c) cancel the registration.

#### **10. Offences**

10.1 A person who breaches this bylaw commits an offence and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

#### **Related links**

- Wellington City Council Public Pools: [www.wellington.govt.nz/recreation/get-active-with-us/swimming-pools](http://www.wellington.govt.nz/recreation/get-active-with-us/swimming-pools)
- Swimming Pools: Ministry of Education: [www.education.govt.nz/school/property/state-schools/school-facilities/swimming-pools/](http://www.education.govt.nz/school/property/state-schools/school-facilities/swimming-pools/)
- Application form for registering a public pool: [www.wellington.govt.nz/services/consents-and-licences/health-registration](http://www.wellington.govt.nz/services/consents-and-licences/health-registration)

