
3. Policy

CITY HOUSING UPDATE - KEY ISSUES AND WORK IN PROGRESS

Purpose

1. This report provides an update on the development of a draft rent setting scheme and a progress report on the financial sustainability of City Housing.

Summary

2. Council received funding from the Crown via a Deed of Grant signed in 2007. Accordingly a range of obligations must be met. City Housing must be financially sustainable, upgrade all its properties, and continue to deliver a social housing service of similar scale until 2037.
3. A briefing to Councillors on 27 February 2018 and 19 June 2018 highlighted limitations of current policy settings and illustrated a need to make changes to ensure:
 - rent settings are equitable for our tenants;
 - housing need is met; and
 - City Housing is financially sustainable.
4. On 21 June 2018 Council agreed to Officers preparing a draft rental scheme that provides for a greater level of equity for our tenants and to call on Central Government to act with urgency to extend Income related Rent subsidies to Council.
5. Local authorities are not eligible to apply for an Income Related Rent Subsidy (IRRS) from the Crown. An IRRS would significantly reduce rent for tenants whilst also providing additional revenue (to market rent values) that would cover capital works and operational expenditure associated with delivering a service over and above that of a regular landlord.
6. City Housing sets rental charges at 70% of market rent. Overall, regardless of their income and circumstances, our tenants receive the same level of discount. A range of additional discounts are also made available in specific circumstances. This creates issues of inequity and hardship that need to be addressed.
7. The City Housing service is not rates funded and is solely dependent on its rental return. On average, rent returned is approximately 68% of total market rent. This creates financial sustainability issues for the service.
8. Extensive work to identify the key opportunities to improve City Housing's financial sustainability has been completed. This includes generating additional revenue through partnerships, reducing costs through targeted capital works programmes and reviewing how we operate to gain efficiencies and make cost savings.
9. Initial modelling shows that a more equitable rent setting scheme, that is income based, can provide a positive financial impact for our more vulnerable tenants and for the service, while not unduly affecting affordability for tenants overall.
10. The next step is to bring a draft rent setting scheme and consultation plan to Council for approval by the end of the year. Considerations will include alignment with Central

Government policy, affordability for tenants, complementing rather than competing with other housing providers, and how any potential changes will be transitioned to minimise any potential impact on tenants.

Recommendation/s

That the City Strategy Committee:

1. Receives the information.
2. Note progress on developing a draft rent setting scheme, policy and operational improvements.

Background

11. The Council is one of the largest social housing providers in New Zealand outside of Housing New Zealand Corporation. City Housing manages approximately 2,000 properties, housing more than 3,500 people.
12. Overall the Council has a desire to provide social housing in the long term to those with a housing need, that tenancies are managed fairly, and that the service is financially sustainable and does not draw on rates funding.
13. Currently, local authorities are not eligible to apply for an Income Related Rent Subsidy (IRRS) from Central Government. Successive governments have repeatedly declined access to IRRS for local authorities.
14. In 2007, the Council entered into a Deed of Grant (the Deed) with the Crown who granted \$220 million to Council to upgrade its social housing portfolio. Along with a set of design specifications the Deed also requires the Council to continue to deliver social housing at approximately the same levels until 2037, and that the service is financially sustainable.
15. The Deed funds were granted to address years of deferred maintenance and renewals work, to the point where properties were no longer fit for purpose and in some instances, not fit for habitation without significant capital expenditure.
16. A detailed Housing Upgrade Programme (HUP) was developed and agreed with the Crown to carry out the required works during the first 20 years of the Deed. The HUP was divided into two phases each scheduled over 10 years. Phase 1 was to be funded by the Deed monies and Phase 2 was to be funded by Council. It was estimated and agreed that Council's contribution for Phase 2 would be approximately \$180m.
17. As planned, the Deed of Grant has now been fully drawn down. Accordingly, HUP Phase 1 was completed with the re-build of Te Māra (formerly known as Arlington Site 2) in September 2018. To date approximately 50% of the portfolio is upgraded and meets or exceeds the set specifications as outlined in the Deed.
18. Detailed planning is currently underway to complete HUP Phase 2 before 2027. This planning also includes ensuring Council complies with recent legislative changes that affect property condition such as the Healthy Homes Guarantee Act (2017).
19. On 27 February 2018 and 19 June 2018, officers briefed Councillors on issues affecting the Council's provision of social housing through the City Housing service. Issues of inequity among tenants caused by policy settings, our obligations under the Deed of Grant and the requirement for the service to be financially sustainable were discussed.

20. It was noted throughout the workshops that Council's inability to access IRRS funding for its tenants creates further inequity. Council tenants who find themselves in a similar situation to tenants of Housing New Zealand Corporation or a Registered Community Housing Providers (CHPs) are significantly financially disadvantaged.

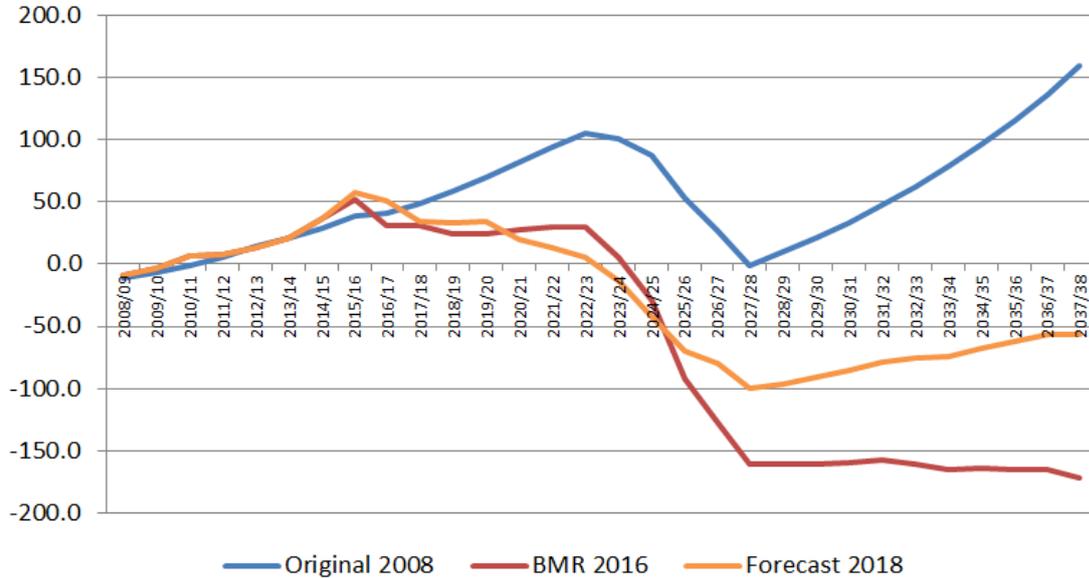
Discussion

Financial Sustainability

21. Almost all social housing landlords across the world receive some form of subsidy in order to exist and operate. This enables them to provide their tenants with discounted rent and additional support services. Rental return alone is not sufficient.
22. Council tenants are not eligible for an Income Related Rent Subsidy from Central Government. IRRS funding is only available to Housing New Zealand Corporation and Registered Community Housing Providers (CHPs).
23. Social housing landlords who are eligible receive IRRS at market rent levels and generally receives further funding for providing additional support to its tenants. City Housing is not eligible to receive this subsidy from Central Government.
24. Furthermore City Housing does not receive rates funding and its finances are ring fenced. The entire operation is funded by rental revenue. This also means any revenue generated can only be used by City Housing.
25. In 2016 a detailed Business Model Review was undertaken and found that City Housing was not financially sustainable in the long term. It was confirmed that cash reserves would not be sufficient to fund Council's portion of the HUP. The review also identified that without significant change to City Housing's financial position, the service would accrue debt quicker than it could repay any advances.
26. Cash reserves need to be accumulated on a cyclical basis, to allow for ongoing upgrade works to occur. As depicted in Table 1 below original forecasts in 2008 anticipated slowly accumulating reserves over a 15 year period, following which the funds were to be invested back into the portfolio before entering another accumulation phase. Only at the end of an upgrade cycle should the reserves be fully utilised before starting the cycle again.
27. Following the review a number of opportunities or levers to improve City Housing's financial position have been identified and implemented. Examples of key opportunities are as follows:
- Exploring alternative funding mechanisms such as partnerships with HNZC to lease Te Māra, generating additional revenue, whilst also providing good quality social housing to tenants who have access to IRRS and to allow for further property development on other HNZC sites.
 - Improve capital efficiency through the Strategic Housing Investment Plan (SHIP) involving, disposals of non performing properties and investing sales funds back into new developments.
 - Achieving efficiencies through a Single Capital Works Programme including procurement and asset life cycle management. This includes planning to complete the remaining upgrade work in tenanted properties to minimise lost rent days and to eliminate relocation costs.
 - Operational efficiencies – looking at how we structure ourselves to deliver services. A full budget review and staff restructure was completed in 2018.

28. New financial projections completed in 2018 reflecting these changes, show significant improvements that have been achieved despite an environment of increasing operational costs (Table 1).

Table 1: Business Model Review City Housing Cash Position



29. If City Housing cannot generate sufficient financial reserves then the implications are:

- Reduced investment in our housing stock resulting in deferred maintenance and properties not being upgraded to modern living standards. The risk of not complying with legislative requirements and the Deed will increase, as will the health and safety risk to our tenants.
- Significant capital injections will be required after extended periods of limited maintenance and upgrades (as was the case with the Deed).
- Rates funding may be required and would require trade-offs for other services.

30. The Business Model review identified that changing the Council’s rental policy could have the greatest potential to improve the sustainability of City Housing. Policy settings could be changed to ensure the following:

- that the Council meets its Deed obligations
- that tenants pay an equitable rent
- that our rent setting scheme aligns with Central Government policy so that the tenant receives the maximum available support and that where possible this is recovered by Council.

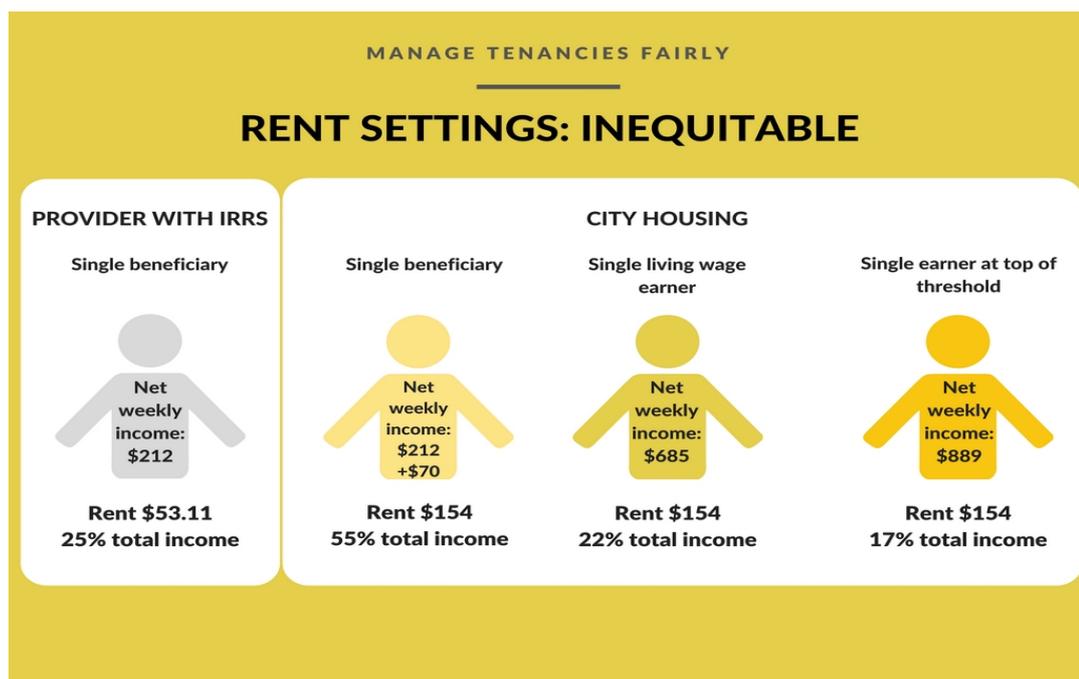
31. On 21 June 2018 Council agreed (Refer Attachment 1: City Housing Policy Review Resolutions) to the development of, and key principles for, a new rental scheme that is:

- equitable for our tenants,
- meets housing need, and
- supports a financially sustainable City Housing service.

Recap of policy settings and issues

32. The Council's Social Housing Services Policy (the Policy) was last reviewed in May 2010. The Policy focuses on how we prioritise and allocate homes to potential tenants, how we set rents and how we manage the tenancies.
33. Overall the current rent setting policy does not take into account the individual circumstances of our tenants. Rents are generally set at 70% of market rent. Market rent assessments are independently completed each year. Market conditions mean that each year rent charges continue to increase.
34. Each tenant's income and circumstances are checked annually to confirm eligibility to be housed by City Housing. There are varying thresholds to eligibility based on household type. For example a family can earn more than a single person before they are considered as being outside of eligibility.
35. Tenants can also move in incremental steps onto full market rent when their income or assets are above certain thresholds. These tenancies are reviewed after 12 months with an expectation that tenants should move out of social housing as their circumstances improve.
36. In addition, the policy also provides a range of further rent discounts such as caps on increases, and an affordable rent subsidy. The combined discounts result in only 68% of market rent being returned across the portfolio.
37. City Housing has a reasonably high turnover of newer tenancies and lower income earners. In contrast those tenants earning income at the higher end of our eligibility threshold pay a much lower percentage of their income as rent. Comparatively the turnover of this cohort is considerably lower.
38. Inequity occurs as tenants in similar properties end up paying the same rent regardless of their income or circumstances. Furthermore, Council tenants who would meet the criteria for IRRS are significantly worse off than their counterparts who are housed by an eligible provider despite being eligible for an accommodation supplement. Refer to Table 2 below.

Table 2: Comparison of different rent settings with market rent of \$220 (Feb18)



Progress to develop a new rent setting scheme

39. To achieve the three outcomes of equity, meeting housing need and financial sustainability, policy settings need to be changed to enable the City Housing service to adapt to escalating pressures.
40. Officers have developed a *Rental Analysis Forecasting Tool* that is able to model how changes to rental settings affect affordability for tenants and the financial sustainability of the service. Combined with the Wellington Housing Affordability Model analysis this will help develop options that make affordability, sustainability and equity clear.
41. Initial modelling shows that a more equitable rental system can also provide a positive financial impact for some of our more vulnerable tenants and the service, while not unduly affecting affordability of tenants overall.
42. More detailed work is required to develop an equitable rent setting scheme to ensure that it takes into account the various circumstances of our tenants. Alongside this work, housing market conditions and pressures, changing demographics, Central Government policy settings, and the financial sustainability of the service will need to be considered and balanced.
43. Preliminary discussions with tenants indicate awareness of the inequities in the status quo and support for the need for change. Tenant and stakeholder engagement will be an important part of developing the new rent setting scheme – key tasks and a proposed timeframe for work is set out below (refer Next Actions).

Access to the Income Related Rent Subsidy

44. IRRS tenants pay approximately 25% of their income as rent up to a set threshold, at which point the percent they pay increases to 50% of their income. The remainder of the market rent is paid to the social housing agency by Central Government as a direct subsidy. Many providers also receive extra funding to provide additional intensive tenancy services.
45. Despite receiving an accommodation supplement, it is clear City Housing tenants on a low income would be better off on IRRS. Also our tenants on higher incomes would likely pay more rent if they were eligible for an IRRS.
46. IRRS funding is only available to Housing New Zealand Corporation and Registered Community Housing Providers (CHPs). Successive governments have repeatedly declined access to IRRS for local authorities.
47. Officers and Local Government New Zealand have recently approached the current Minister of Housing, the Minister of Finance and various government agencies including the new Ministry of Housing and Urban Development to advocate for local authorities to be able to access the IRRS. However, throughout these discussions it has been confirmed that IRRS will not be offered directly to local authorities in the immediate future.
48. There are two alternative ways for the Council to access IRRS:
 - Establish an arms-length entity where the Council would hold a minority shareholding or governance role and for it to become a CHP. Tenants would be allocated housing by the Ministry of Social Development (MSD). Each new tenant allocated by MSD would be eligible for IRRS (if within the IRRS eligibility criteria). Existing tenancies would not be eligible.
 - Enter into a partnership agreement with an existing CHP or Housing New Zealand Corporation, where the Council leases housing to the CHP for placement of tenants by MSD. The tenancies would be eligible for IRRS and managed by the CHP.

49. Given the Deed of Grant commitments, the desire for Council to remain directly in social housing, and the legal complexity associated with establishing an arms-length entity, this way of accessing an IRRS has not been explored further.
50. City Housing already has a small number of leases with providers, such as the Salvation Army, Dwell Housing Trust, and Housing New Zealand (HNZ) who are eligible to access an IRRS for their tenants. More recently with the completion of Te Mara, 105 units were leased to HNZ significantly reducing rents for the tenants there and increasing rental revenue for City Housing.

Next Actions

51. Planned next steps are detailed below in Table 3.

Table 3: Timeframe and Key Tasks to develop a new City Housing rent setting scheme

Timeframe	Key Tasks
June to October 2019	<ul style="list-style-type: none"> • Complete rental analysis and related scenarios. • Develop new options for rent setting and tenancy services. • Discuss possible settings with tenants, housing sector representatives and government and non-governmental agencies working in housing, and Council advisory groups.
November 2019	<ul style="list-style-type: none"> • Draft consultation document and Council papers.
December 2019	<ul style="list-style-type: none"> • Seek approval to consult.
February to March 2020	<ul style="list-style-type: none"> • Consultation period of six to eight weeks. Proposed timing is to ensure adequate time to encourage tenant submissions via presentations and opportunities, and avoids the December and January period (e.g. business holidays).
April 2020	<ul style="list-style-type: none"> • Oral Hearings and Presentations to Councillors as required.
June 2020	<ul style="list-style-type: none"> • Final policy for Council consideration.
July 2020	<ul style="list-style-type: none"> • New policy takes effect.
September 2020	<ul style="list-style-type: none"> • New policy implemented

Attachments

Attachment 1. City Housing Policy Review Resolutions (21 June 2018)

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SUPPORTING INFORMATION

Engagement and Consultation

When Council is asked to approve a draft for consultation a full consultation plan will be provided for a six to eight week consultation period.

Treaty of Waitangi considerations

A proportion of tenants may be mana whenua or from other iwi groups. In addition, housing partners may be from mana whenua and other Māori communities. The Council will engage with mana whenua and Maori housing related groups to ensure views are considered.

Financial implications

The impetus for this work is to ensure the financial sustainability of the Council's social housing, and to address financial equity issues for tenants. The consultation papers will include financial analysis associated with different rental options.

Policy and legislative implications

The development of change options will consider Central Government policy settings. There are no legislative implications to change the Council's rent setting scheme, although compliance with the Deed of Grant must be considered in all change options.

Risks / legal

Notwithstanding the Residential Tenancies Act, all change options must comply with the terms of the Deed of Grant. There are considerable financial risks in not addressing the financial sustainability of the City Housing service. These are addressed in the body of the paper.

Climate Change impact and considerations

There are no significant climate change implications, however, housing that is built and maintained to a high standard of amenity will require less energy for living in than poorly maintained housing.

Communications Plan

A communications and consultation plan will be developed, to ensure all affected and interested parties are canvassed for their views. Establishing a clear timeframe will in part help with effective communication.

Health and Safety Impact considered

There are no health and safety impacts for Council staff at this stage. Risks will be assessed as part of change options.

City Housing Policy Review Resolutions (21 June 2018)

That the City Strategy Committee:

1. Receive the information.
2. Agree the approach is to provide an enduring and enabling policy framework where social housing decisions are made at the right level:
 - a. Councillors set and monitor the long-term policy direction through governing principles and service delivery parameters.
 - b. City Housing is then enabled to:
 - Develop the operational procedures and guidelines to deliver within these parameters
 - Develop an agile and responsive workforce able to create and act on opportunities
 - Manage risks and achieve the best outcomes for tenants (seeking Council approval if actions exceed agreed parameters).
3. Agree that the City Housing Policy needs to:
 - a. Support Council's vision of "All Wellingtonians well housed"
 - b. Provide a broader range of services for different needs in the population, offering products to different segments that face barriers in accessing housing across the spectrum, and recognising the role of other housing providers
 - c. Balance delivery of housing outcomes with a financially self-sufficient operation.
4. Agree to the following governing principles that will set the direction for the City Housing Policy:
 - a) The policy **strengthens All Wellingtonians being "well housed"** by providing fit-for-purpose housing, for the right households, in the right location, at the right price, with the right support.
 - b) **Matching housing need with supply** takes a **person-centred approach** and considers need variables including **affordability, access, discrimination, and security of tenure.**
 - c) Where City Housing is the right outcome, those most in need are allocated housing using strategies **tailored** to household need and **tiered** by service level. Including a new rental scheme that allows rent charges to be set in a more equitable way.
 - d) Leveraging **partnerships** creates better outcomes for those in housing need, increases housing supply options and improves overall services to tenants, and the city.
 - e) The **strategies and priorities** for City Housing are agreed and monitored, with outcomes reported back to governors on a regular basis.
5. Agree to the following service delivery parameters and outcomes for City Housing operations:

- a) **Fit-for-purpose housing** to a modern standard (warm, dry, and safe) with a target percentage meeting an agreed level of accessibility.
 - b) **For the right households** using a Needs Assessment to determine eligibility based on current situation, housing need and best outcome.
 - c) **In the right location** that delivers a sense of community, safety, belonging and best matches housing need and supply across the housing spectrum.
 - d) **At the right price** for tenants using the Council's social housing rent setting system with charges based on tenant circumstances, including scenarios mitigating negative financial impacts for existing tenants.
 - e) **Ensuring a commitment to tenants** by engaging with them to achieve their housing aspirations and providing appropriate support when required.
6. Agree to Officers preparing a draft rental scheme that provides for a greater level of equity for our tenants to be considered by Council for consultation.
 7. Agree as a Council, noting the significant cost to our tenants of the current policy, to call on central government to act with urgency to extend Income Related Rent Subsidies to Council social housing tenants who otherwise meet the criteria to receive these subsidies.
 8. Note that Officers will review the process for assessing tenants' income and assets to ensure greater accuracy.

PUBLIC HEALTH BYLAW (PUBLIC POOLS) - CONSULTATION REPORT

Purpose

1. This report presents the results of public consultation and officer analysis, and asks the Committee to recommend that the Council adopt the amended Public Health Bylaw (Public Pools) (Attachment 1).

Summary

2. Consultation on proposed amendments to the Public Health Bylaw (Public Pools) has been completed. Two amendments are proposed: to include 'splash pads' in the definition of public pools, and to align content on the supervision of children with the Aquatic Facility Guidelines 2015.
3. Consultation documents also asked for comment about regulation of other health topics and noted research on hygiene risks at beauty salons. The consultation showed some support for regulation as a precautionary approach to manage hygiene risks.
4. Officers propose to report back to the Committee later this year, in view of work in progress at Hutt City Council to develop a bylaw regulating the appearance industry (e.g. beauty salons, tattoo parlours), and the potential to develop regional hygiene standards.

Recommendation/s

That the City Strategy Committee:

1. Receives the information.
2. Note the summary of submissions (Attachment 2) from public consultation was on a proposed amended Public Health Bylaw (Public Pools).
3. Agree two amendments to the Public Health Bylaw (Public Pools) (Attachment 1):
 - a. adding 'splash pads' to the definition of public pools, and
 - b. re-align content about the supervision of children with the Aquatic Facility Guidelines 2015, New Zealand Recreation Association
4. Agree that the Public Health Bylaw (Public Pools) is the most appropriate form of bylaw and does not give rise to any New Zealand Bill of Rights Act 1990 implications.
5. Recommend to Council that it adopts the amended Public Health Bylaw (Public Pools) (Attachment 1).
6. Delegate to the Chief Executive and the Portfolio Leader the authority to amend the proposed amended Bylaw to include any amendment agreed by the Committee and any associated minor consequential edits.

Beauty industry regulation

7. Note that submissions were sought on any other matters to regulate in a public health bylaw, and several submitters addressed the topic of regulating to manage hygiene and health risks at beauty salons, both for and against regulation.

8. Note that regulation of the beauty industry would be a precautionary as there is not a clear evidence base of issues (e.g. infection).
9. Note that regulation usually addresses activities that puncture the skin or could puncture the skin, and usually takes the form of guidelines or a code of practice with registration or licensing and inspection requirements set out in a bylaw.
10. Note that Hutt City with support from Regional Public Health are conducting pre-consultation on an 'Appearance Industry Bylaw' about activities that risk puncture or risk puncturing the skin (Attachment 3).
11. Note alignment or joint development of guidelines or a code of practice would be useful for education and clarity (e.g. some businesses have branches across the region), subject to local consultation.
12. Note that subject to feedback received at this meeting, officers propose to report back to Councillors on the Hutt City bylaw development process and options to join a regional approach to guidelines or a code of practice – when the Hutt City regulation is further progressed, and seek further information on issues (e.g. infection) in the interim.

Background

5. The Local Public Health Bylaw became due for review on 1 July 2018 and the review must be completed by 1 July 2020 in order for the Bylaw not to lapse. On 11 April the Committee approved a statement of proposal for public consultation on the proposed Public Health (Public Pools) Bylaw (the bylaw). The proposed changes considered in consultation were 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. The bylaw content about public pools was retained but redrafted to provide for a simpler drafting style.
6. The consultation also asked if people thought other areas should be regulated under a public health bylaw (e.g. the beauty industry). Consultation was open from 23 April to the 24 May. Twelve submissions were received. A summary of submissions has been prepared (Attachment 2). Key points are outlined in the discussion below.

Discussion

Public Pools.

7. Few comments were received about public pools content and this likely reflects that only drafting improvements were proposed to the bylaw. Regional Public Health proposed that 'splash pads' be added to the definition of public pools. There have been cases of disease spreading at these venues, and it will make the requirements clear for anyone considering setting up a splash pad. Officers recommend that 'splash pad' is entered at clause 2.1 (Attachment 1).
8. Regional Public Health also suggested Council inspectors develop and use a risk matrix and tailor management for pools based on risk. Council inspectors already tailor

management based on risks at specific pools and Council pools are managed to a higher standard (e.g. more frequent water testing than required in standards). Comments have been referred to the Public Health inspectors as an operational consideration.

9. Prior to consultation the Committee asked for the rules about supervising children to be made clearer and draft content was added to the consultation version which distinguished between signage requirements for 5 years and over, and under 5 year olds (clause 7.2). This was based on Wellington City Council pool rules. However, after the close of consultation officers have discovered this would overlap and be inconsistent with the Aquatic Facility Guidelines 2015, New Zealand Recreation Association (the Guidelines).
10. The Guidelines encourage all public pools to have rules about supervision of children. The content of these rules and their implementation are reviewed annually by an approved pool inspection agency (e.g. Poolsafe). This provides comprehensive regulation by specialised agencies. The Guidelines have an industry standard in that can be legally binding if included in a bylaw, the exact wording is: *Children under eight must be actively supervised by a caregiver 16 or over. Actively supervised means watching your child at all times. Able to provide immediate assistance.*
11. Officers recommend the bylaw text is re-aligned with this guideline content, mark-up is shown at clauses 6.1 and 7.2 (Attachment 1). This means that the bylaw can reinforce the guidelines (which are inspected against) rather than specify a slightly different requirement. Council inspectors will continue to check for appropriate signage under (clause 7). This is not considered a material change to the version consulted on because the requirement for all children to be actively supervised by a caregiver aged 16 or more remains.

The beauty industry – national context and local research

12. The beauty industry is not subject to central government regulation. This means that practices like pedicures, facials, waxing, are not subject to any legislative regime. There are however beauty industry qualifications and guidelines, and generally covering activities that puncture, or risk puncturing, the skin:
 - Guidelines for the safe piercing of skin, Ministry of Health
 - Customary Tattooing Guidelines for Operators, Ministry of Health
 - Auckland Council – Health and Hygiene Code of Practice 2013
 - New Zealand Association of Registered Beauty Therapists (NZARBP) Health and Hygiene Guidelines (reviewed 2017).
13. The Council Public Health Team has not received direct evidence of issues arising from the beauty industry (e.g. infection), but research by Regional Public Health has identified that many nail bars and beauty salons have hygiene practices that may not be sufficient to prevent the spread of disease. The Regional Public Health report 2018. *Survey of Knowledge and Infection Control Practice in Salons Offering Nail Services, Wellington. Regional Public Health* is about a survey they undertook based on visiting and interviewing 57 salons in the region, 27 of them in Wellington. While they found some salons following guidelines and best practice, they also found:
 - that a relatively high proportion of staff didn't know what diseases were transferrable, and how to prevent transfer,
 - only a few places sterilise instruments like nail clippers, or clean and protect foot spas to a standard that is adequate to prevent the spread of infections, and

- in many cases where instruments are sterilised, they are not stored in a way to maintain sterilisation.

14. The common test for a bylaw is that it address a specific nuisance or issue under the Local Government Act 2002 (LGA). However some local authorities are now regulating the beauty industry to manage the risks of infection from insufficient hygiene (e.g. Auckland, Dunedin City, Masterton, South Wairarapa, Stratford, Ruapehu, and Timaru District Councils).
15. Regulation usually takes the form of a standards or guidelines that must be followed, and a registration and inspection system set out in a bylaw.

The beauty industry – submissions on the Public Health (Public Pools) Bylaw

16. Most submitters addressed the topic of regulating the beauty industry. There was not a lot of additional information about particular issues, with only one submitter noting having had nail infections and having seen poor practices. Another was particularly concerned to regulate Botox more strictly. Otherwise submissions were at a fairly high level whether or not to regulate and what to consider when developing regulation.
17. The District Health Board and Regional Public Health submitted to express support for regulation with a minimum standard for infection control and hygiene.
18. Industry groups expressed support in principle for regulation and a willingness to work with the Council to get guidelines or a code of practice right so that they are effective, and ensure aspects like on the job training can be catered for. A wish for consistent bylaws across the country was noted. The industry organisations submitting were:
 - New Zealand Hair and Beauty Industry Training Organisation (HITO)
 - New Zealand Board of Professional Skin Therapies
 - New Zealand Association of Registered Beauty Therapists (NZARBT).
19. Some submitters were not in favour of regulation noting:
 - education of operators could be encouraged without regulation
 - if there were significant issues then the Government would regulate, and
 - regulation may be costly and could stifle competition by favouring incumbents.
20. Officers express agreement in the summary of submissions (Attachment 2) that the points raised would all be relevant considerations if the Committee is interested in developing regulation for the beauty industry.

Options

21. Officers consider there are two main options about the beauty industry, either:
 - Continue to monitor for health issues arising from the beauty sector, and look at regulating if issues arise; or
 - Consider a precautionary approach, and consider regulating as a preventative measure.
22. Hutt City with support from Regional Public Health is conducting pre-consultation to develop an 'Appearance Industry Bylaw' to cover activities that pierce the skin, risk piercing the skin, or risk burning the skin. A table of different activities outlined in their pre-consultation is attached (Attachment 3). The pre-consultation outlines a model of registration with an indicative cost to businesses of \$240 per year for an inspection and registration plus an hourly rate of \$160 for annual inspections that take extra time.

23. A report on the pre-consultation is due to the Hutt Valley Services Committee on 30 August 2019 – this Committee deals with services being provided between Hutt City and Upper Hutt jointly, and will consider if a joint bylaw is appropriate. Subject to committee decisions, a bylaw and appropriate guidelines or code of practice for hygiene may be developed – subject to special consultative procedure.
24. Officers met with Hutt City and Regional Public Health on 13 May 2019. At the meeting it was agreed that Wellington City Council officers would be kept informed of the pre-consultation process, and be invited to join relevant working groups. Officers agreed it would be desirable, if Wellington City Council would like to regulate in future, to have a common guideline or code of practice for the region.
25. While the pre-consultation report will not be available until the end of August, Hutt City officers were able to note at the meeting on 13 May 2019:
 - they are finding industry support for regulation, with some concern about costs
 - many members of the public assume that there already is regulation
 - they are not yet consulting on guidance or a code of practice, and expect to develop these in consultation with industry, and using existing guidance
 - using a pre-consultation is helping to establish a collegial approach for industry, the Council and Regional Public Health to ensure a workable approach, and
 - the overall process is also working to support education, many in the industry did not realise their practices were insufficient, and some who graduated years ago are finding the education aspect valuable.
26. Officers propose that the Committee consider the question of regulation in more detail after proposed regulation in the Hutt City is further progressed. This will provide the opportunity to learn from their experience, use a similar approach, and potentially develop a regional guidance or code of practice for managing hygiene related risks. Any guidance or code of practice would require consultation with Wellington businesses, but a starting point of alignment or even joint development would be useful for education and clarity (e.g. some businesses have branches across the region).
27. Other considerations would be:
 - Development costs: staff time (e.g. policy, public health) management oversight, Council time, legal team for drafting, and public consultation would bring in industry and public time as well.
 - Ongoing costs: Cost recovery is generally part of regulatory design, but there are risks when developing new expertise to inspect and regulate a new sector. Web searches indicate that in Wellington there are at least 25 tattoo studios (including cosmetic tattoo) and at least 90 beauty and nail salons.
 - Alternative options that could be effective: Under the LGA the Council will still need to consider if a bylaw is the most appropriate response. Alternatives will need to be considered, like education, or even an alternative approach like seeking the development of a national standard.
 - Scope of regulation: The Council will need to consider what practices to regulate and the criteria for regulating (e.g. Attachment 3).
 - Evidence base: Even with a precautionary approach it would be desirable to have better evidence of issues to ensure that regulation were effective - regulating without understanding of each activity could risk unnecessary or ineffective regulation. Officers will seek more detailed Accident Compensation Corporation data as one possible source.
28. Officers propose to report back to the Committee on these matters alongside on progress on the Hutt City bylaw development and the potential for regional guidelines

or code of practice. There is no evidence base that would warrant a more urgent response (e.g. infection).

Next Actions

29. If the Committee agree, Council will consider amendments to the Public Health Bylaw (Public Pools) for approval on 26 June 2019. Subject to approval the amended bylaw will come into effect on 1 July 2019.
30. Subject to feedback received at this meeting, officers propose to report back to Councillors on the Hutt City bylaw development process and options to join a regional approach to guidelines or a code of practice – when the Hutt City approach is further progressed. Their planned next step is a report to the Hutt Valley Services Committee on 30 August 2019, and potentially bylaw development in 2020.

Attachments

Attachment 1.	Proposed Amended Public Health Bylaw (Public Pools)	Page 252
Attachment 2.	Summary of Submissions	Page 256
Attachment 3.	Hutt City Scope of Pre-Consultation	Page 261

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SUPPORTING INFORMATION

Engagement and Consultation

Consultation on the proposed amended Public Health Bylaw (Public Pools) was open from 24 April to 24 May 2019. A copy of all consultation papers were mailed to all public pools. A news release was issued by the portfolio lead. Beauty sector groups were contacted directly, and discussions were held with Hutt City and Regional Public Health.

Treaty of Waitangi considerations

There are no Treaty of Waitangi considerations.

Financial implications

There are no financial implications.

Policy and legislative implications

Regarding public pools, the Committee could choose not to progress amendments, and allow the bylaw to be automatically revoked. As noted to the Committee previously (11 April 2019) this is not recommended as the bylaw provides protection of public health at swimming pools and helps sustain a high level of confidence in our pools.

Risks / legal

On 11 April 2019 the Committee determined that it remains appropriate to have a bylaw for addressing public health problems at public swimming pools, after considering alternative forms of regulation and alternatives to regulation.

Now, before making the proposed amendments, the Council must determine whether the proposed bylaw is in the most appropriate form of bylaw and determine whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (sections 160 and 155(2) Local Government Act 2002).

In carrying out this review, officers have recast the bylaw to focus on its form and ensure that it can be readily understood. This ensures that the problem of public health issues at public pools can be effectively understood and regulated. Officers therefore consider that it is the most appropriate form of bylaw.

Officers consider that no provision in the proposed amended bylaw is inconsistent with the Bill of Rights Act or give rise to Bill of Rights Act implications.

Climate Change impact and considerations

There are no climate change considerations.

Communications Plan

The amendments to the bylaw will be notified when they take effect.

Health and Safety Impact considered

Health and safety are hoped to be improved by the clearer expression of requirements in the amended bylaw.

Proposed amended Public Health Bylaw (Public Pools)

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 [insert date].

Contents

1. Purpose
2. Interpretation
3. Public pools to have certificate of registration
4. Premises and equipment to be clean
5. Compliance with pool water quality standard
6. Children to be supervised
7. Signs to be displayed
8. Fees
9. Notices to remedy public health risks
10. Offences

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 and splash pads. 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*.

- 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 ~~old~~ are not permitted in public pool premises unless must be actively supervised by a caregiver aged at least 16 years of age or over.

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 of children, safety and disease prevention measures.

7.32 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.

~~7.23~~ ~~Safety~~ The signage about supervision of children 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.~~

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 \[https://wellington.govt.nz/recreation/get-active-with-us/swimming-pools/indoor-pools\]](https://wellington.govt.nz/recreation/get-active-with-us/swimming-pools/indoor-pools)
- Pools: safety at the pool, Ministry of Education [https://www.education.govt.nz/school/property/state-schools/school-facilities/swimming-pools/pool-safety/]
- Application [form](#) for registering a public pool [link to be provided]

Summary of Submissions

Submissions on the Public Health (Public Pools) bylaw were sought from Tuesday 23 April to Friday 24 May. The submission process was promoted via the Council website, and a news release was also provided, resulting in newspaper coverage of the fact that information was also being sought from the beauty industry. Officers also contacted the New Zealand Association of Registered Beauty Professionals directly to inform them of the opportunity to comment. Discussions were held with Regional Public Health and Hutt City.

Submission questions were:

1. Are there any areas you think the proposed bylaw could be made clearer or easier to understand?
2. Is there anything else you think should be in the bylaw about public health at swimming pools?
3. Do you have any concerns about other areas of public health that you think the Council should consider – for example in relation to the health and beauty industry?

Twelve submissions were received. There were only a few direct comments about the public pools content (Table 1). This was not unexpected, as only drafting improvements were proposed. Most responses were about the beauty industry (Table 2).

Table 1: Public Pools

#	Submitter	Submission Comment	Officer's Response
1	Regional Public Health (RPH)	Support the bylaw. Recommend 'Splash Pads' (or water play parks) be included in the definition of public pools. The Raumati Splash Pad had an outbreak of Cryptosporidium in February 2018. If there is re-circulated water it should be treated as there is a high likelihood that children swallow enough water that there is a public health risk if contamination is present. RPH recommend additional treatment such as ultraviolet light disinfection. There should also be public health signage about avoiding use after illness, and use of swimwear or swimming nappies.	Agree. The main focus of the bylaw is the management of water quality at public facilities for the prevention of public health risks. There would be no reason to exclude splash parks. While there are no splash parks in Wellington at present, inclusion in the definition will make requirements clear. Recommend: Add 'splash pads' to the definition of public pools.
2	Rebecca Drent	Signs should be displayed about the risks of infection from bacteria in the pool rooms.	Noted. Cleaning standards are to mitigate risks (e.g. tinea/athlete's foot), but may not completely resolve them. Signs about safety and health (e.g. not to swim if you have had diarrhea) are more important.
3	Regional Public Health	Recommend Council officers develop and use a risk assessment matrix to assess the risks at each pool before issuing a certificate of registration. This will allow an authorised officer to	Noted. Officers already assess pools based on their characteristics and use checklists and assessment tools. All pools must meet the Pool Water Quality Standard (NZS 5826:2010).

#	Submitter	Submission Comment	Officer's Response
		determine the appropriate level of standards a facility and their staff should meet that is correlated to the likely level of public health risk that the facility may represent. Contact details for discussion provided.	Council pools are managed to exceed the requirements of the Pool Water Quality Standard given the public use (e.g. more frequent water testing than required). The Public Health team will discuss with RPH officers as offered.
4	Bernard O'Shaughnessy	Council officers have been lax in establishing health standards. I can name 28 cafes and restaurants that should be closed because of rats, mice, flies and bad kitchen procedures.	Out of scope. Concerns about any food premises should be directed to the Council Public Health Team. Phone: 04 4994444, Email: publichealthenquiries@wcc.govt.nz
5	Bernard O'Shaughnessy	Close down Khandallah Pool.	Noted.
6	Bernard O'Shaughnessy	Standards must be maintained. Lifeguards get a hard time.	Noted.

Table 2: Beauty Industry

#	Submitter	Submission Comment	Officer's Response
Do not support regulation			
1	Andrew Wharton	Consider regulation cautiously, only regulate if there is demonstrable harm occurring with a higher cost than regulating. There is no spread of disease through Wellington. A study just shows many salons are not familiar with best hygiene practices. Some basic education could solve the problem at a much lower cost.	Noted. Alternatives to regulation (e.g. education) will need to be considered as alternative options, alongside any further proposal to develop a bylaw.
2	Andrew Wharton	Incumbent businesses are more likely to support regulation and can use it to control entry (e.g. an example from USA where somebody can no longer do African braiding as they must be a licensed cosmetologist – and the training course costs \$16,000). Please ensure this does not happen in Wellington.	Noted. Officers consider regulation should be appropriate for the activity being undertaken, and should not impose unnecessary training requirements on businesses. New Zealand Hair and Beauty Industry Training Organisation (HITO) submission (below) note they would like to work with Council to ensure appropriate on the job training if a bylaw were to be developed.
3	Serge Peters	If there is a public health issue it should be sorted by the Government not the Council.	Noted. The Ministry of Health provides guidance on several topics but has not indicated that regulation will be developed at any stage soon.

#	Submitter	Submission Comment	Officer's Response	
Support regulation				
4	Capital and Coast District Health Board and Regional Public Health	Support a bylaw, our submission is also endorsed by Health System Committee [previously Community Public Health Advisory Committee]. A bylaw with registration and annual inspections would provide a framework requiring businesses to comply with minimum standards for infection control and hygiene. We recommend it cover commercial services that risk cutting, piercing or burning the skin (e.g. beauty, nail salons, tattoo, body and skin piercing studios).	<p>Noted. These submitters all support regulation based on standards of hygiene and criteria, with annual registration and inspection by the Council (to ensure any standards and criteria are appropriately applied).</p> <p>Should the Council wish to regulate CCDHB, RPH and industry bodies are willing to work with Council on regulation.</p> <p>Under Local Government Act 2002 criteria a bylaw should usually address a particular problem. A precautionary approach is sought to better manage risk to public health (from poor hygiene), rather than a perceived problem.</p> <p>Noted. With regard to scope of any potential regulation. Comments are noted, the scope of any regulation would be an important consideration.</p>	
5	NZ Hair and Beauty Industry Training Org. (HITO)	Support regulation based on a consistent (across NZ) minimum standard for sterilisation and hygiene, and regulation with license and certification by the Council's environmental health team, to promote and protect public health in the health and beauty industry. Propose nails and waxing, skin and body piercing and tattooing - be clear what it covers.		
6	Rebecca Drent	Should be regulatory checks that salons workers have training and understand and can demonstrate knowledge of how to control diseases and use sterilisation procedures.		
7	Bernadette Anne	Better training and monitoring. Self-monitoring is no longer working.		
8	Sue Kedgley	There should be national regulation, but in absence, Councils should take a precautionary approach. Essential that Wellington follow other councils in the area (e.g. Masterton and South Wairarapa) to pass a bylaw that requires annual registration and inspection for nail, beauty and tattooing services. Hutt is consulting on a bylaw. Many other areas have a bylaw (e.g. Auckland, Napier, Dunedin).		
Some support for regulation with comment about what to consider or how to regulate				
10	HITO	To develop criteria consult with beauty therapy industry and public health.		<p>Agree. If regulation is developed engagement with industry bodies with practitioners will be planned to correctly identify, describe and</p>
10	NZ Board of Professional	The Board would like to help design the best possible bylaw to protect		

#	Submitter	Submission Comment	Officer's Response
	Skin Therapies	<p>health, safety and wellbeing of the public. We have worked with local authorities and this is an aim of our organisation.</p> <p>[The president of the organisation has been complaints officer for NZARBT (see below)]. Unfortunately in some areas with bylaws about hygiene there is still an increase in complaints received [by industry].</p> <p>Industry involvement in the development of bylaws can mitigate gaps and ensure correct wording of protocols to ensure regulation makes a visible difference to health, safety and wellbeing of the public.</p>	<p>manage risks.</p> <p>Noted. Officers are aware of New Zealand Association of Registered Beauty Professionals guidelines and may promote them to industry, alongside other relevant guidelines.</p> <p>Officers were not aware of NZ Board of Professional Skin Therapies hygiene protocols for nail salons and will seek a copy.</p> <p>Officers will also seek information about complaints from industry organisations.</p>
11	The New Zealand Association of Registered Beauty Professionals (NZARBT)	We have worked with several local authorities and want to see the consistency of bylaws for the Beauty Professional Industry. We would welcome the opportunity to be involved in any structured process, like the development of more detailed options and wider consultation. Because of the continued adverse publicity for the Beauty Industry we would like all councils throughout New Zealand to be made aware of our Health and Hygiene Guidelines.	
12	HITO	<p>Ideally HITO would like to see everyone in the beauty industry qualified. At same time HITO recognise the current full beauty therapy qualifications [usually a one to two year qualification] may not seem to be fit for purpose for some businesses and practitioners (e.g. nail enhancement, piercing).</p> <p>If there is to be a bylaw, HITO would like to work with regulation developers to ensure suitable qualifications can be developed and offered, to support compliance. HITO consider there should be on the job training for this (so practitioners do not need to attend an institution).</p>	<p>Agree. Officers consider regulation should be appropriate for the activity being undertaken, and should not impose unnecessary training requirements on businesses.</p>
Risks and issues			

#	Submitter	Submission Comment	Officer's Response
13	Bernadette Anne	I have had fingernail infections from salon visits, in the worst case some fingernails died. Expensive and painful to manage. [Salon was not in Wellington].	Noted. Aside from reports like this there is little information about the prevalence of infection.
14	Sue Kedgley	There can be serious side effects (rare reports of death even) from inappropriate use and storage of needles and botox materials (and the same applies to dermal fillers and tattooing). Should be inspection to ensure materials and needles are appropriately stored and staff are appropriately trained and supervised. In addition botox itself is toxic and its use is questionable.	Noted. If regulation is developed the scope will need to be considered. Regulation in other local authorities has generally been about activities that involve puncturing the skin, so could include botox use. However, an activity that is already regulated might not be included (e.g. botox use by doctors or nurses would be exempt from a bylaw because their practice is already regulated).
15	Bernadette Anne	Standards have dropped. I see shared use of tools without sterilising, and pedicure basins not cleaned between users. There should be better training and monitoring.	Noted. This public observation is in line with research conducted by RPH, that practices may not be sufficient to avoid the spread of infections.
16	Toby Bourke	Sunbeds should be banned there are proven melanoma skin cancer risks associated with their use. This is supported by the Cancer Society and numerous scientific studies.	Noted. The Health Act 1956 prohibits the use of sunbeds for those under age 18. The Ministry of Health provides guidance and advice on their use. For more information refer: https://www.health.govt.nz/your-health/healthy-living/environmental-health/sunbeds . If the Council progress regulation it will need to consider if sunbeds are in scope.

Services to be regulated proposed in Hutt City pre-consultation¹

Higher risk services - proposed these services would need to follow a code and be registered.

Commercial services that pierce the skin such as:	Tattooing, Body piercing, Commercial ear piercing, Acupuncture, Electrolysis, Extractions, Red vein treatment, Derma rolling
Commercial services that risk piercing the skin such as:	Hair removal, Manicure, Pedicure, Exfoliation
Commercial services that risk burning the skin such as:	Pulsed light, Laser treatment

Lower risk services proposed to follow a code, but not require registration.

Commercial services which intend to improve, alter or cleanse a person's skin or, complexion, or body such as:	Makeup, Tinting, Facials, Colon hydrotherapy, Body therapy and massage and Glycolic peels
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Professional services

These would not be regulated under the bylaw as practitioners are required to follow professional standards, and compliance with these professional standards is monitored by another organisation(s)

- Any commercial service undertaken by Health Practitioners and covered by the Health Practitioners Competence Assurance Act 2003 in the practice of their profession
- Acupuncture undertaken by members of the Acupuncture NZ or members of the New Zealand Acupuncture Standards Authority
- Commercial ear-piercing services undertaken in a pharmacy licensed by the Ministry of Health.

Non-commercial services

Non-commercial services and traditional/cultural tattooing, for example moko undertaken by artists under tikanga-māori Traditional/cultural tattooing is included in this proposed bylaw, e.g. moko undertaken by artists under tikanga-Māori. However, we are aware that some councils in New Zealand have made traditional/cultural tattooing exempt in their bylaws and we would like to determine the most appropriate approach for Lower Hutt regarding the inclusion or exclusion of traditional tattooing in this proposed bylaw.

¹ Frequently Asked Questions re Proposed Appearance Industries Bylaw, Hutt City, adapted from <http://www.huttcity.govt.nz/Your-Council/Have-your-say/Consulting-on/pre-consultation-on-proposed-appearance-bylaw/>, 4 June 2019.