

**SUBMISSION: FOOD SAFETY
INFORMATION BYLAW 2020
24TH JANUARY 2020**

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Submission to the Food Safety Information Bylaw 2020

Introduction

Business North Harbour welcomes the opportunity to make this Submission on the Food Safety Information Bylaw 2020. As part of a review, Auckland Council has checked to see how well the current rules are working and what improvements could be made.

Public consultation has opened and closes on 2nd February 2020.

Business North Harbour (BNH) is a significant commercial and industrial Business Improvement District (BID), representing over 4,500 commercial property owners and businesses within the North Harbour area. Collectively they employ over 35,000 Auckland residents and ratepayers.

The organisation is located within the Upper Harbour Local Board area, which is expected to be the fastest growing area in the country over the next ten years, in both absolute and percentage population terms, which brings both challenges and opportunities to the North Harbour business district.

BNH represents and works with a wide range of businesses comprising of a mix of sole traders, Small Medium Enterprises (SME), through to multi-national organisations. Our businesses range across manufacturing, warehousing, logistics, services, retail and hospitality. We have a range of food businesses that serve food to the public such as cafés, restaurants, bars and takeaways and it is these businesses that will be affected by the Food Safety Information Bylaw 2020. In addition, we have key educational institutions within or on our boundary, including Massey University Albany and AUT Millennium, along with a variety of primary and secondary schools including Rangitoto College, the largest secondary school in New Zealand. All are located within an industrial estate which is on average less than 20 years old.

Background

Every day Aucklanders choose to buy food from businesses such as cafés, restaurants, takeaways and supermarkets. People can become unwell if they eat or drink food contaminated by poor food safety practices. Auckland Council keeps the community safe through its role in administering the Food Act 2014, which ensures food businesses sell safe and suitable food to eat and drink.

Auckland Council made a bylaw that currently requires most food businesses that serve the public (for example most Auckland-only cafés, restaurants, bars and takeaways) to display a food safety grade certificate (food grade) to: • empower the community to make informed decisions about where food is purchased; and to • incentivise businesses to

achieve high food safety standards. The current food grade display rules are in the Tāmaki Makaurau Whakapai Kai 2013, Auckland Council Food Safety Bylaw 2013.

Auckland Council recently checked how the rules were working and identified improvements. Council is proposing a new bylaw that: • requires most Auckland-only food businesses that serve the public (for example cafés, restaurants, bars and takeaways) to display a food grade certificate. Specifically, it is proposed that food businesses that operate under a Template Food Control Plan, serve the public and are registered and verified by Auckland Council must display a food grade certificate in specified locations at physical and online sites.

Overall, Auckland Council believes the proposal will: better protect public health from foodborne illness; continue to require most food businesses that serve the public (estimated 6,711 or 70 per cent) to display a food safety information certificate (for example most Auckland-only based cafes, restaurants, bars and takeaways); incentivise most food businesses that serve the public to achieve high food safety standards; empower the public to make informed decisions about where they purchase food; require food safety information to be displayed in locations that are visible to the public at stores, market stalls, food trucks and online prior to entering a premises or making a purchase; and mean the rules will be clearer and easier to understand.

Business North Harbour Feedback

(1) Proposal 1: Continue to require certain food businesses to display a food safety information certificate (Clause 6)

Council has proposed that a food business operator must display a valid food safety information certificate (food grade) if that business: operates under a Template Food Control Plan in the Food Act 2014; directly serves food to the public; and is registered and verified by the council. This means most Auckland-only cafes, restaurants, bars and takeaways. Council has asked whether submitters agree or disagree?

Business North Harbour agrees with a Bylaw continuing to require food businesses to display a food safety information certificate.

However, in doing so, we note concerns raised by the Council that the Food Act does not currently require food businesses to display any public information about their registration or verification status, such as a certificate.¹ Therefore, while it is mandatory for businesses using a Template Food Control Plan (for example, Auckland based cafes or restaurants) that are registered and verified by Council to display a food grade, this does not apply to food businesses using a National Programme 2 or 3 that are registered and verified by Council (for example Auckland-based bread bakeries) to display the food grade.²

This can lead to public confusion when some businesses display a food safety information certificate while others do not.³ As a consequence, we ask that the Council advocate to the Ministry of Primary Industries for a national food safety grading scheme and national certification.

¹ See *Food Safety Bylaw 2013: Findings Report 2019*, page 12.

² See *Food Safety Bylaw 2013: Findings Report 2019*, page 14.

³ See *Food Safety Bylaw 2013: Findings Report 2019*, pages 25 and 30.

(2) Proposal 2: Clarify that a food safety information certificate must be displayed at physical and online locations (Clause 7)

Council has proposed to clarify that a food safety information certificate (food grade) must be displayed at: physical sites at which food is sold directly to the public; online sites (including websites, apps, social media or similar) that the business has control over; and any other location if directed by council. The Council has provided an example: Carlos operates his food business from a restaurant and a food truck. Both sites are under the same Template Food Control Plan. He also has a website and a Facebook page for his food business. Carlos must display a food grade at both the food truck and restaurant, and on the website and Facebook page. Carlos' restaurant also appears on another website. The food grade does not need to be displayed at that website because Carlos does not control the content of that website. Council has asked whether submitters agree or disagree?

Business North Harbour agrees with a Bylaw continuing to require food businesses to display a food safety information certificate at physical sites at which food is sold directly to the public but ask that the display location be at the discretion of the business. In this regard, we provide further comments below.

In principle, BNH agrees with a Bylaw requiring food businesses to display a food safety information certificate at online sites that the business has control over but ask that the display location at these online sites be at the discretion of the business. In addition, the requirement to include a certificate on all business websites, apps, social media or similar mediums appear extensive. We suggest this requirement may lead to considerable compliance expense for businesses and we question whether Auckland Council can make a Bylaw having such a broad effect.

We also note the discussion regarding enforcement in the *Food Safety Bylaw 2013: Findings Report 2019* and agree that most businesses will likely comply with the requirements. However, we do hold concerns about the very limited options available to the Council to enforce the Bylaw where a business does not comply. We suggest that the Council properly resource enforcement action where necessary, but also continue to advocate to government to provide a wider range of enforcement tools (such as infringement notices).

(3) Proposal 3: Clarify where at physical sites a food safety information certificate must be displayed (Clause 7)

Council has proposed to clarify where a food safety information certificate (food grade) must be clearly displayed at physical sites. The display location depends on the limitations of the physical site. For example, display on a window may be possible at a restaurant but not a food truck. Council has proposed five places for display of food grades in order of preference (with number one being the most preferred): (1) All doors used by the public and clearly visible in the direction of entry; or (if this is not possible) (2) on windows beside all doors used by the public and clearly visible in the direction of entry; or (if this is not possible) (3) at the main counter clearly visible to the public; or (if this is not possible) (4) on a wall behind the main counter clearly visible to the public; or (if this is not possible) (5) on any external surface clearly visible to the public (ie where other locations are not possible). Council has asked whether submitters agree or disagree?

Business North Harbour agrees with a Bylaw continuing to require food businesses to display a food safety information certificate at physical sites at which food is sold directly to the public, but ask that the display location be at the discretion of the business.

In this regard, we ask that the drafting of the proposed Bylaw be amended to state: "The certificate must be displayed in a manner that is clearly visible to the public but at the discretion of the business (in order of suggested but not mandatory preference) – (i) on all doors used by the public and clearly visible in the direction of entry; or if this is not

[preferred by the business](#) (ii) on windows adjacent to doors in (i) and clearly visible in the direction of entry; or if this is not [preferred by the business](#) (iii) at the main counter or if this is not [preferred by the business](#) (iv) on a wall behind the main counter; or if this is not [preferred by the business](#); (v) on any external surface facing the public.

(4) Proposal 4: Require display of a food safety information certificate at specific online sites (Clause 7)

Council has proposed that a food safety information certificate (food grade) must be displayed on the homepage or similar of online sites that the food business has control over. The Council has provided an example: Ani owns a restaurant in Auckland and runs a website for her restaurant. She has inserted an image of her food safety information certificate on the welcome page of her restaurant website. Ani's restaurant also appears on another website. The food grade does not need to be displayed at that website because Ani does not control the content of that website. Council has asked whether submitters agree or disagree?

In principle, Business North Harbour agrees with a Bylaw requiring food businesses to display a food safety information certificate at online sites that the business has control over, but ask that the display location at online sites be at the discretion of the business.

In this regard, we do not support the proposal in the Bylaw that the certificate must be clearly visible on the homepage or similar landing page or screen as we believe this should be at the discretion of the business. There may, for example, be aesthetic reasons why a display of such a certificate on the home page may not be appropriate. Placing a certificate on a 'Contact' page may, for example, be more appropriate for the business.

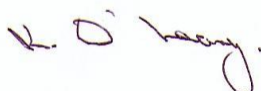
Despite our agreement in principle, BNH holds concerns that there is little research and analysis in the *Food Safety Bylaw 2013: Findings Report 2019* about the implications of requiring businesses to display food safety information certificates at online sites. In our view, there may be unintended consequences. For example, where a business has multiple premises and some are outside Auckland, not all will have been graded by Auckland Council. Further, we question whether Auckland Council can make a Bylaw regulating activities outside Auckland.

Further, we hold concerns about how Council will resource monitoring of compliance by businesses with such an extensive requirement to include a certificate on all business websites, apps, social media or similar mediums. Again, there appeared to be little research and analysis in the *Food Safety Bylaw 2013: Findings Report 2019* about these resourcing implications.

Conclusions

Finally, Business North Harbour welcomes the opportunity to make this Submission on the Food Safety Information Bylaw 2020. Although we understand that there will be no opportunity to make a presentation on this Submission, should there be any questions or other matters arising from this Submission, we would be pleased to respond to those.

Yours sincerely,

A handwritten signature in purple ink, appearing to read "K. O'Leary".

Kevin O'Leary
General Manager