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Submission on *Reducing Harm from Commercial Sunbeds Consultation document*

1. Thank you for the opportunity for Auckland Regional Public Health Service (ARPHS) to provide a submission on the *Reducing Harm from Commercial Sunbeds* Consultation document.

2. The following submission represents the views of the Auckland Regional Public Health Service and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to Appendix 1 for more information on ARPHS.

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Introduction

1. Thank you for the opportunity to submit on the *Reducing Harm from Commercial Sunbeds* Consultation document.

2. ARPHS considers that the MoH's proposal for regulations to be made under s119(d) of the Health Act 1956[1] to licence premises and staff and set mandatory operating practices, is a positive step towards protecting public health from the harmful effects of UV radiation. We appreciate the detail provided in the Regulatory Impact Statement and consultation document.

3. However, we have some significant concerns with the proposal and our primary recommendation is for a complete ban on all sunbed services in New Zealand as a means of enhancing population protection from ultraviolet radiation exposure.

4. Solaria have now been banned in Brazil, and the majority of states in Australia[2], where melanoma and skin cancer statistics are comparable with New Zealand statistics, although mortality rates for both melanoma and non-melanoma skin cancers in New Zealand are higher than the corresponding Australian rates.

5. As a secondary preferred option, we would support options that prevent high risk users from accessing sunbeds and require information on the health risks to be provided to customers.

6. We have answered the following questions in line with the ministry's template for this submission. We have also included additional information in the appendices of this submission. Numbering of topics is as per the consultation document.

1.4.1 – 1.4.3 Commercially sensitive information and OIA

7. This document contains no commercially sensitive information and no information would need to be withheld in the event of an OIA.

1.4.3 Declaration of interest

8. The Ministry's current regulatory proposals are of particular interest and relevance to the Auckland region. ARPHS and Auckland Council have experience with some of the proposed regulatory changes due to the introduction of Auckland Council's *Health and Hygiene Bylaw* and *Code of Practice 2013*[3] where the regulations being

[1] **s119 Health Act 1956 – Regulations as to noxious substances and gases and dangerous goods: (d)** the prohibition, restriction, or regulation, of the use, sale, or supply of any apparatus or equipment which may emit electromagnetic radiation (other than X-rays or gamma rays), and the licensing or registration of persons, premises, or things in relation to any such use, sale, or supply.
[2] Department of Health, State of Victoria, (2012). *Skin cancer prevention framework 2013-2017.* URL: www.health.vic.gov.au
[3] Auckland Council. (2013). *Health and Hygiene Bylaw and Code of Practice.* Auckland, New Zealand. Retrieved from URL:

proposed by the MoH were made mandatory in the Auckland Region from 1st July 2014.

9. The Auckland Council Bylaw includes the requirements that:
   - Every sun-bed premises must have a Health Protection Licence issued by Council.
   - Operators comply with minimum standards (as per the joint standard AS / NZS 2635:2008).
   - Sunbed operators are trained appropriately including training in the assessment of customer skin type and appropriate advice/exclusions. Individuals with Skin phototype 1 or individuals with a history of melanoma are not permitted to use a sunbed. Please note ARPHS is very concerned that such exclusions are not required under the MoH's proposed regulatory scheme.
   - Sunbed use is restricted to those 18 years and over regardless of parental or guardian consent. We note a ban on users under 18 years is also a feature of the Health (Protection) Amendment Bill[4].

10. Up until 1 July 2014, six-monthly surveys of solaria have been undertaken in the Auckland region as per ARPHS contract with the MoH. These were subsequently undertaken by Council following enactment of Auckland Council's Health and Hygiene Bylaw 2013.

11. Since 2009 ARPHS has had involvement in surveys of solaria premises to assess level of compliance with the voluntary guidelines set out in the joint Australia / NZ standard 2635:2008 *Solaria for Cosmetic Purposes*[5]. Survey reports were completed by contractors (Target Investigations) in 2009 and 2012 for the purpose of identifying where surveillance and education was necessary. Following a one year transition period (July 2013 – June 2014) after implementation of Council's bylaw, all known active commercial solaria premises in the Auckland region were registered, and compliance was checked at least once by an Environmental Health Officer (EHO) from the Auckland Council between 1 July 2014 and 31 June 2015.

2.2.1. Harm

12. In addition to the harmful effects of sunbed use outlined in the discussion document, we note the increased risk of UV-induced cataract and macular degeneration.

13. The World Health Organisation's initial assessment that the risk of melanoma increased 75% when sunbed use starts before age 30 was based on information from the 2005 meta-analysis undertaken by IARC[6]. In 2012, a systematic review and meta-analysis of cutaneous melanoma attributable to sunbed use was

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http://www.aucklandcouncil.govt.nz/en/licencesregulations/bylaws/pages/healthandhygienebylaw.aspx

[4] Health (Protection) Amendment Bill. (2015). Retrieved from: http://www.parliament.nz/en-nz/pb/legislation/bills/00DBHOH_BILL56943_1/health-protection-amendment-bill

[5] Standards New Zealand (2008). Australian / New Zealand Standard Solaria for Cosmetic Purposes. Retrieved from URL: http://shop.standards.co.nz/catalog/2635:2008%28AS|NZS%29/scope?

[6] International Agency for Research on Cancer Working Group on Artificial Ultraviolet (UV) Light and Skin Cancer. (2007). The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: a systematic review. *Int. J Cancer* 120:1116-22.

published in the BMJ[7], which updated and significantly enhanced WHO's statement and the previous IARC meta-analysis. The review showed that ever use of sunbeds was associated with a 20-25% increase in risk for melanoma, while the use of sunbeds before age 35 years was associated with an 87% increased risk of melanoma. The literature demonstrated a dose-response relationship indicating that every sunbed session increased the risk of melanoma by 1.8%. In addition, sunbed use was associated with a 223% increase in risk of squamous cell carcinoma and a 9% increase in risk of basal cell carcinoma.

14. The latest meta-analysis showed that previous work had underestimated the risks associated with indoor tanning. This is possibly due to sunbed use being a relatively new phenomenon which did not immediately impact skin cancer statistics. In addition, skin melanoma and cancer statistics in New Zealand have continued to show an upwards trend. Data from the Ministry of Health[8] indicated that in 2009 there were 2212 cases of melanoma registered and 326 deaths (a number close to that of the annual road toll), and deaths continued to rise in 2011 to 359[9]. Cases of melanoma deaths have increased by an added 87 deaths per year in males, and 28 deaths per year in females, in 2011 compared with 2001. There were also approximately 67,000 non-melanoma skin cancer cases in 2009[10]. New Zealand and Australia have the highest melanoma rates in the world and skin cancer cases (melanoma, squamous cell and basal cell carcinomas) make up 80% of all new cancers in NZ each year[3].

2.2.2. Costs of skin cancer in New Zealand

15. As outlined in the Ministry of Health's consultation document, a 2009 study[11] commissioned by the Cancer Society of New Zealand, conservatively calculated the costs of skin cancer to New Zealand for the year 2006. At this time, the melanoma death rate was 269, considerably less than the 359 deaths in 2011. Deaths from non-melanoma skin cancer in 2005 were 102.

16. Deaths are the most significant cost of skin cancer, causing the loss of 4741 life-years in 2006. The cost of this lost economic productivity alone was calculated at 66 million per year. The total cost per year was calculated at 220 million (2009 dollars) not including personal preventive measures and intangible costs.

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[7] Boniol M, Autier P, Boyle P, Gandini S. (2012). Cutaneous melanoma attributable to sunbed use: systematic review and meta-analysis. *BMJ* 345: e4757; 2012 (July). Retrieved from: http://www.bmj.com/content/345/bmj.e4757

[8] Ministry of Health. (2012). *Cancer: New registrations and deaths 2009.* Wellington.

[9] Ministry of Health (2014). *Cancer: New registrations and deaths 2011.* Wellington.

[10] Non-melanoma skin cancers are not required to be notified under the *Cancer Registry Act* 1993, so figures were based on *The Cost of Cancers to New Zealand report (2009)* which estimated that 67,000 non-melanoma skin cancers are treated each year.

[11] O'Dea D. (2009). *The costs of skin cancer to New Zealand. A report to The Cancer Society of New Zealand.* University of Otago. Retrieved from URL: https://wellington.cancernz.org.nz/assets/Sunsmart/Information-sheets/CostsofSkinCancer-NZ-22October2009.pdf

2.3 Sunbed premises in New Zealand

ARPHS solaria survey results prior to introduction of the Auckland Council Health and Hygiene Bylaw 2013

17. Prior to the introduction of the Auckland Council bylaw, ARPHS six-monthly surveys showed that compliance rates did improve, but only slowly. Premises that did not show interest in compliance with the voluntary standard, and that generally did not improve, were typically those for whom solaria were a side-business e.g. gyms and hairdressers. Premises where solaria provided their main source of income were more eager to achieve compliance with the voluntary standards and were appreciative of any recommendations or advice from ARPHS.

18. Areas in which many premises frequently did not comply included:
    - The use of warning signage
    - Claims of health benefits
    - The use of timers
    - The exclusion of high risk clients
    - Staff training.

19. While the majority of premises correctly excluded key high risk groups there was great variation in the level of compliance for other risk groups. In general most premises excluded those:
    - Aged under 18
    - Skin phototype one.

20. Under voluntary compliance few premises excluded or discouraged other high risk clients from undertaking sunbed use. These included those with the following characteristics:
    - Skin phototype two
    - Burn easily
    - A family history of skin cancer
    - Moles or sun damaged skin.

21. A common theme found in premises not excluding any or most of the aforementioned high risk groups was the justification that they believed it was ‘up to individuals to make a personal choice about whether or not to use a sunbed’ and not the responsibility of commercial sunbed operators.

22. Under voluntary standards, another key area of concern was found to be related to a lack of knowledge in calculating length of exposure for clients based on: skin type, the specific sunbed being used and variations in UV bulb output. Many operators only relied on manufacturers’ tables for exposure time. In July 2013, just under half of the premises (44%) surveyed displayed exposure charts specific to the sunbed(s) on-site. In addition, a small number of premises displayed exposure charts that were either:
    - Not specific to the sunbed(s) used on-site.

- Exposure charts for which operators were unable to confirm whether the charts were specific to the sunbed(s) on-site. Examples of this occurred when operators kept existing chart(s) that were in place when they took over the premises.

23. For clients who had fairer skin and / or were using a sunbed for the first time, many premises provided recommendations on the session duration. In some instances, however, session duration decisions were:
    - Based on non-specific exposure charts *or*
    - Arbitrarily determined by staff (in one example, one half of the total sunbed session duration time).
    - One premises allowed a session to continue 'as long as the lid was left open', this was based upon the belief that this would minimise exposure.

24. Some premises did not have an automatic timer, which places responsibility on staff to accurately monitor session length. In a few cases, the client was able to set or change the timer. This creates an opportunity for the exposure time to be abused by clients. Gyms tended to rely on tokens for sunbed use. These are usually allocated in 3 minute time blocks. Unsupervised use of these tokens by clients could result in more exposure than recommended.

ARPHS solaria survey results following introduction of the Auckland Council Health and Hygiene Bylaw 2013

25. Following the implementation of mandatory rather than voluntary requirements under the Auckland Council *Health and Hygiene Bylaw 2013*, there has been a marked improvement in compliance rates. Specifically, in the recent reporting period, 94% of premises excluded high risk clients (those under 18 or with skin phototype one). This is a major improvement compared to the previous year where only 79% of premises excluded these high risk clients.

26. Recent information supplied by Auckland Council shows that commercial solaria identified as actively operating sunbeds have dropped in number from 40 premises in January 2015 to 28 premises. This represents a 30% decrease. This reduction was predominately in the Waitemata DHB. This decrease in numbers may be attributable to the impact of the new bylaw on those who were already considering ceasing their solaria business. In the same timeframe, one new premise began offering sunbed services.

District Health Board Area within Auckland Region	Number of Commercial Solaria Premises as at January 2016
Auckland District Health Board (ADHB)	7 (Previously 12*)
Waitemata District Health Board (WDHB)	11 (Previously 19*)
Counties Manukau District Health Board (CMDHB)	10 (Previously 9*)
Total	**28**

Fig. 1. *Breakdown of areas where commercial solaria premises are located by DHB, January 2016. Source:* Auckland Regional Public Health Service. 2016. ***in January 2015**

27. We have included more information on the recorded numbers of sunbed premises operating in the Auckland region, as well as some other ongoing concerns identified through ARPHS and council surveys of sunbed services in Appendix 2 of this document.

3 Policy Objective

28. ARPHS supports the policy objective to reduce the risks of harm to the public from commercial sunbeds. However, we consider that Criterion 4 undermines the policy objective. As noted above, other jurisdictions with lower mortality rates for melanoma than in New Zealand have banned sunbed use.

29. As a result of the harm and costs to health caused by sunbed use and UV exposure, ARPHS believes that criterion 1 of the discussion document is not conservative enough in reaching the stated policy objective to reduce the risks of harm to the public from commercial sunbeds. We agree with criterion 1 that 'new controls or interventions should be risk- and evidence- based'[12] whenever appropriate and possible, but rather than such interventions being 'consistent with good international practice', we believe that this level of harm requires that interventions are consistent with ***best*** international practice, or at least with practices in countries similar to NZ and with comparable rates of harm from UV exposure. We suggest amending Criterion 1 to read:

'New controls or interventions should be risk and evidence-based, and consistent with best international practice, particularly with countries similar to NZ and having comparable rates of harm from UV exposure'.

[12] Ministry of Health (2015). *Reducing Harm from Commercial Sunbeds: Consultation document.* Page 9.

4 Policy options

4.1 Options considered

30. While ARPHS acknowledges that banning sunbeds was not the MoH's preferred choice, ARPHS recommends, in light of criterion 1 as rewritten above, all sunbed services in New Zealand should be banned. Our position is based on the accumulated research showing harm from sunbed usage, our high skin cancer rates, the upward trend in our melanoma death statistics, associated costs of skin cancer, the lack of effective Pharmac-funded treatment options, and ARPHS experience with mandatory regulations in the Auckland region.

31. ARPHS notes that solaria have been banned in Brazil, and most states in Australia; Victoria, New South Wales, Tasmania, Queensland, the Australian Capital Territory, Western Australia and South Australia[13]. There are no commercial solaria in the only remaining part of Australia - the hot and humid Northern Territory. As New Zealand has the highest mortality rates for both melanoma and non-melanoma skin cancers in the world, we strongly recommend that we have similar or stronger legislative protection for the public, including a ban on sunbed services.

32. The less preferred option is tighter regulation of the industry, largely as proposed in the discussion document, although a glaring omission from the proposal is that there is no exclusion of high risk skin types as is currently occurring in Auckland. The regulations being proposed by the MoH, under s110(d) of the Health Act 1956, are that:
    - *Sunbed premises and businesses* that hire out sunbeds are *licensed*
    - *Staff* who operate or are hired to set up sunbeds in people's homes are *licensed*
    - *Sunbed premises and businesses* that hire out sunbeds have set *mandatory operating practices.*

4.2 The proposal

4.2.1 Component 1: Licensing

> **Q.** Do you support the licensing of businesses that provide sunbed services on a commercial basis? Why/why not?

33. As previously noted, ARPHS supports licensing **as a 'second best' option only** – we strongly prefer a ban on the importation, manufacture, sale and rental of sunbeds for commercial and private use.

[13] Department of Health, State of Victoria (2012*). Skin cancer prevention framework 2013-2017*. Retrieved from URL: www.health.vic.gov.au

34. If the Ministry's preferred option is selected, ARPHS agrees that licensing all premises, businesses and operators will ensure that premises and businesses are monitored, and all operators are held to the same standards of training and operational practices.

35. We believe that this is essential as businesses clearly have economic conflicts of interest in adhering to standards, for example, in restricting their customer base due to skin type or age.

> **Q.** If you support licensing, do you support an approach of licensing both sunbed premises and operators? Why/why not?

36. The licensing framework seems appropriate; however it sets the standard too low for 'operators as fit and proper persons to operate sunbeds'[14]. ARPHS believes that operators should not have had any convictions in the past two years in relation to the provision of sunbed services in order to obtain a licence, or at a minimum that relicensing would depend on assessing any conviction on a case by case basis with the default position being that no licence will be granted.

37. ARPHS also notes that the MoH would administer the licensing scheme, but strongly recommends that where Council has bylaws replicating this function to greater or lesser degree that Council continues in this role and ARPHS be privy to Council's results, as required to align with the new licensing requirements administered by the MoH.

38. In some regions, such as Auckland, this function sits well within the work being done by Council, particularly with our overarching regional council. The Council's aforementioned Hygiene Bylaw and Code of Practice 2013 (see para [9]) has been implemented by annual visits to premises by a Council EHO, with some warranting a re-visit to check if recommendations have been implemented. Licenses cost between NZD$246 -$307 per annum.

39. As Auckland Council is currently responsible for both solaria licensing and ensuring compliance they would be ideally positioned to enforce the provisions of the regulations in Auckland.

> **Q.** Do you think the scale of proposed licence fees proposed in the consultation document is reasonable? If not, what are reasonable licensing fees?

[14] 'Operators must provide proof that they are a fit and proper person to operate sunbeds'. From - Ministry of Health (2015). *Reducing Harm from Commercial Sunbeds: Consultation document.* Page 11.

40. ARPHS believes that the level is set too low for fines for operating without a licence. These costs could be recovered in 1-5 days trading and provide no real financial disincentive to continuing to trade. Also note that the cost to the PHU investigating reports of illegal operation will invariably exceed this level of fine. ARPHS believes that the fine should cover the cost of such investigations in addition to providing a real disincentive to operating without a licence.

4.2.1 Component 2: Mandatory operational practices

Staff training

> **Q.** Would you support training being a core focus of the mandatory operational practices? Why/why not?

41. ARPHS supports mandatory training. Mandatory operational practices do not include all of the requirements in the current joint standard. Many owner/operator businesses have very limited training opportunities for staff and are frequently self-training.

> **Q.** Which approach(es) to training would you support? Why?

42. We recommend that training materials for operators are nationally developed and testing administrated centrally.

43. If PHUs were to become involved in training it would be important that (1) a national training standard is set by the MoH along with associated study and test materials, (2) technical training regarding the sunbeds themselves is done by technical experts, (3) the fee is appropriate to the actual cost and provides some leeway for regional variation, and (4) that PHU staff are provided with appropriate training themselves, ratified by the MoH, to deliver dermatological health information, although ARPHS has reservations with how appropriate this may be, as discussed below.

44. With regard to protection of staff operating within solaria, appropriate precautions will need to be mandated by Worksafe NZ. These will depend on a number of factors including:
    - The sunbed's production of UV per unit of time.
    - The number of sunbeds operating in the vicinity of staff.
    - Length of exposure.
    - Individual staff risk factors.

Staff may well need full protection to avoid the cumulative effects of even small exposures, particularly to the eyes and skin**.**

Service provision

Client interview and assessment

> **Q.** Do you support the proposed list of people who should be strongly discouraged from using sunbed services provided by licensed operators? If not, why not and do you prefer another approach? It is currently proposed that people with skin type I and skin type II should be strongly discouraged from accessing sunbed services and hired sunbeds. Do you support this? If yes, what suggestions do you have for supporting compliance with this requirement?

45. **Age restriction** for sunbed use: ARPHS agrees that it is appropriate to prevent <18 year-olds from using sunbeds, (and in light of ongoing high risks of melanoma in young adults, would support an increase in age limit beyond that proposed in the Health (Protection) Amendment Bill).

46. **Skin type** ARPHS does not support the proposal that no-one, regardless of skin type or skin pathology (including a history of skin cancer or melanoma), will be refused the use of sunbeds, but instead operators will merely be required to 'strongly discourage' those with the highest risk skin types. It is unlikely operators will act against their own economic interests unless it is a requirement of their licence, and there is no way that such 'strong discouragement' could be meaningfully assessed. In addition, it is often the case that typical sunbed consumers are fair skinned people who have less natural pigmentation and greater difficulty tanning from sun exposure alone, and these people also be most at risk of harm from sunbeds.

47. Therefore, ARPHS does not support the MoH's proposal merely ***recommending*** that operators do not allow those with a history of melanoma or skin phototype 1 to use sunbeds. This should be ***mandatory*** under any licensing scheme in New Zealand, and is currently mandatory under the joint standard and is being enforced in Auckland under Council's Hygiene Bylaw and Code of Practice 2013.

48. It is vital for reducing the health risk from sunbeds that this mandatory refusal remains in place, and indeed, should be further extended to include *all* significant risk factors for melanoma.

49. The medical literature has shown that significant risk factors for melanoma include but are not limited to fair skin type. Other individual traits, genetic as well as and environmental factors, are also significant. Risk factors include the following:
    - Individual: people with skin phototype one and two, red/blonde hair, blue eyes, number of moles, type of moles/freckles, past history of melanoma, immune suppression, photosensitivity due to prescription medications.
    - Genetic: family history of melanoma, xeroderma pigmentosum.
    - Environmental: childhood exposure, past history of severe sunburn.

50. As a result, ARPHS strongly recommends that the mandate for skin phototype is considerably strengthened by including the following wording:

'People with fair skin who burn easily and people with any other risk factors for melanoma will not be permitted to use a tanning unit'.

51. As sunbed operators (and HPOs) are not medically trained to seek and understand all the significant risk factors for melanoma and skin cancer, people who are unsure about their own personal risk for melanoma and skin cancer should be required to consult their GP before using a tanning unit. In addition, ARPHS does not support the proposal that PHU staff 'train' operators to identify people with high risk skin types. A harmful consequence of this proposal may be that operators may wrongly believe that the advice provided to them by PHUs will allow them to appropriately identify high risk people. This is not the case, and only a person's GP or skin specialist could be expected to obtain full knowledge of an individual's risk factors and take the appropriate responsibility.

52. ARPHS believes that if sunbed use is not able to be refused to those with significant risk factors for melanoma and skin cancer, under the Health Act, then the banning of sunbeds followed by the use of alternative means of legislative enforcement are the most appropriate options to protect population health.

Sections 56 – 62 are responses to the following questions from the consultation document:

> **Q.** Which proposed operational practices outlined above do you support or oppose? Why/who not?

> **Q.** Are there other controls that you believe should apply? What are they and who would be subject to these controls?

53. **Consent forms** ARPHS agrees that these would be required to form a basis for auditing and licensing, and ensuring that clients understood the health risks posed by sunbeds. While we do not agree that people with skin phototype 1 or any risk factors for melanoma should be allowed to use sunbeds, if the MoH's current proposal is successful, consent forms must contain standardised information which must be ticked and crossed and should include the statement under 'client has type I skin type or risk factors for melanoma' that 'client advised that she is at high risk of melanoma and skin cancer and should not use sunbeds'.

54. **Use of a timer** We agree that timed sessions should be mandatory. Rather than operators drawing up individual plans, it would be useful, however, to have various plans approved for use by skin specialists based on skin type, other important risk factors, and the UV dose emitted by the sunbed.

55. In addition, it is not at all clear that three sessions a week, at least 48h apart, would be a safe requirement given that it is now known that every sunbed exposure increases the risk of melanoma by a significant amount compared with non-users,

and given that no users, regardless of skin type, would be excluded. It is highly unlikely that skin specialists would approve a tanning schedule when there is no evidence that tanning is safe, especially for fair-skinned people. Public health and skin specialists do not support the use sunbeds.

Notices, signage, claims and record-keeping

56. **Health claims** ARPHS agrees that health claims of any type would be inappropriate in a commercial sunbed setting.

57. **Warning notices** as listed to comply with the minimum standards: ARPHS supports the display of warning notices and recommends that they are considerably strengthened to read as follows (additions in bold type):
    - Exposure to ultraviolet radiation **from sunbeds** can cause **melanoma**, skin cancer, skin aging and eye damage.
    - Repeated exposure **to ultraviolet radiation from sunbeds** further increases risk.
    - People with fair skin who burn easily and people with any other risk factors for melanoma **will not be permitted** to use a tanning unit.
    - People who are unsure of their own personal risk of melanoma and skin cancer **must** consult their GP before using a tanning unit.

58. **Client records**: The licence holder, in addition to the records mentioned, should also keep a record of the UV dose per unit of time for each sunbed session (if not recorded on the tanning plan or able to be changed). While we agree that client complaints and incidents should be recorded and reported to PHUs, we would recommend a proactive line of inquiry following each sunbed session where the client fills out a form or is asked if they have noticed skin reddening, burning, blistering, injury etc.

Installation, maintenance, servicing and repair of sunbeds

59. **Installation and maintenance**: Minimum requirements for sunbeds may also need to include some way of preventing a UV dose - adjusting dial (which can increase the dose of UV) from being accessed by the client. In addition to an emergency 'off button', there should be a 'call' button available to the client while on the sunbed to provide the option of attracting the immediate attention of staff.

4.2.3 Implementation of regulations

60. The MoH would be the implementing authority for the regulations supported by enforcement officers in PHUs and/ or territorial authorities. In Auckland, as previously mentioned, the Council undertakes the licensing and enforcement role for solaria under their Health and Hygiene Bylaw and Code of Practice 2013, which includes a ban on the provision of commercial artificial UV tanning services to people under 18 years of age, and banning the use of sunbeds to people with skin phototype 1 and those with a history of melanoma. Given that this both provides

greater protection to population health from excessive UV radiation than the proposed regulations and would not require an increase in PHU resources, it is clearly ARPHS's recommendation that this continues, if solaria are not banned. Currently, our HPOs have worked in collaboration with Council in order to fulfil MoH requirements; however, there is no reason why Council could not report directly to the MoH and ARPHS in the future, thus removing any duplicate effort on the HPOs part.

61. This works well in Auckland both because there is a single Council for the region and because there is a good bylaw in place. This may not be the most appropriate model in other regions where there is less integration of TLA practices and where solaria licensing and enforcement would present a novel-type activity.

4.3 Alternative policy options

62. As discussed previously, ARPHS strongly recommends that commercial sunbeds are banned in NZ +/- banning the importation, manufacture, sale and rental of sunbeds for commercial and private use.

4.4 Infringement notices

> **Q.** Do you support the proposed infringement notice penalty of $250 for an individual and $500 for a body corporate? Why/why not?

63. Public health units' enforcement officers would be required to carry out enforcement of the regulations including issuing and following up on infringement notices, and presumably collecting and administering such infringement fees. Fees are minimal compared with the cost of enforcement for the PHU. It is recommended that where Bylaws exist, Environmental Health Officers enforce the provisions of this regulation.

5 Impacts

> Please detail below any other impacts, positive or negative, that are not listed in the consultation document.
>
> **Q.** Who do they affect?

64. The important impacts to consider in banning sunbeds from a population health perspective are those on health. Banning sunbeds would have negligible negative impacts on health in NZ[15]. UV radiation and tanning is available to all New

[15] Vitamin D. (Monday 20 April, 2015). Retrieved from URL: https://central-districts.cancernz.org.nz/en/reducing-cancer-risk/what-you-can-do/sunsmart/vitamin-d/

Zealanders on an almost daily basis through sun exposure. The amount of UV required for health is minimal and can be obtained by exposure of face, arms or legs – the Cancer Society recommends a morning or evening walk in September to April, and a noonday walk in the winter months, provides adequate vitamin D. Otherwise, vitamin D supplementation is a safer means than sunbeds for those unable to get enough sun exposure.

65. Conversely, any reduction in UV exposure would reduce the incidence of melanoma, skin cancer, premature ageing of skin, and blindness from cataracts and age-related macular degeneration.

66. Some significant 'positive impacts' listed in this section are overstated and hence misleading, for example, 'would introduce best practice controls designed to reduce risks to the public and if complied with would have some positive impact in terms of reduced mortality, morbidity and health costs associated with the use of sunbeds'. In fact, the current Standard is more in line with 'best practice controls' as it bans use of sunbeds for those most at risk. These regulations are unlikely to prevent use by high risk consumers for reasons stated above i.e. high risk clients are often those most likely to want a tan and hence seek out sunbeds, and operators have a fundamental, un-auditable, conflict of interest in 'strongly recommending' that such clients do not use their services.

Conclusion

67. Thank you for the opportunity to submit on the *Reducing Harm from Commercial Sunbeds* Consultation document. We welcome feedback from the Ministry of Health on this issue.

Appendix 1 - Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards).

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS' primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.

Appendix 2 – Compliance monitoring of sunbeds in the Auckland region

Results in the Auckland region

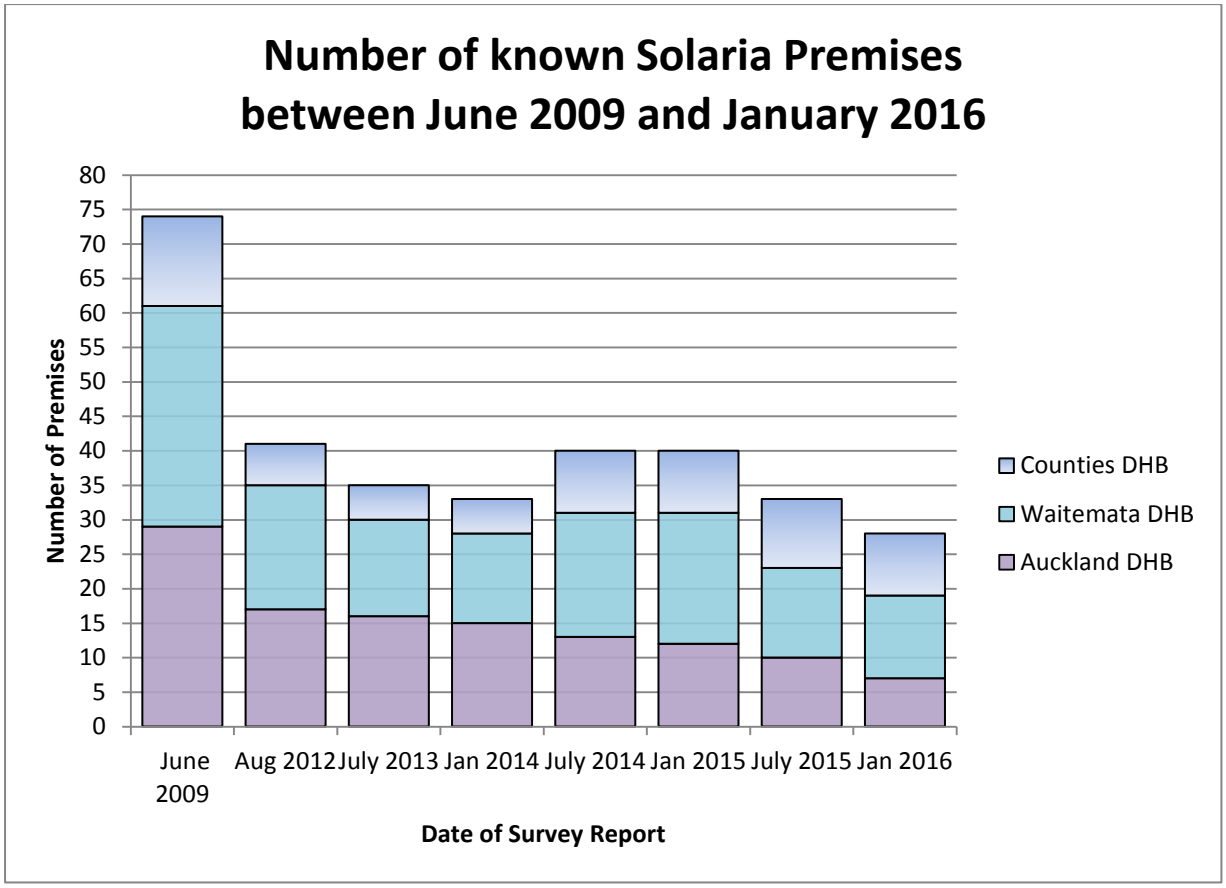

Fig. 2. *Number of known solaria premises between June 2009 and January 2016. Source:* Auckland Regional Public Health Service. 2016.

In 2009, the number of solaria premises in the Auckland region was 74. By 2012, however, the number of premises had dropped to 39. This may be attributable to factors such as the economic recession and/or decreased interest in solaria use by the public. Further declines in the number of premises continued until July 2014, when Council located 9 previously unidentified solaria premises. Only two premises closed down during this time. In January 2015 a further 5 previously unidentified premises were located by Auckland Council, and another 5 premises closed. Following the introduction of licensing by Auckland Council, the number of solaria operating premises has continued to decrease. Many of the premises which no longer operate were those for whom solaria were operated a side business. This includes gyms and hair dressers.

Currently Auckland Council holds information on these kinds of businesses which allows such a comparison of compliance between solaria operators, and reduces the likelihood of 'missing' premises being excluded from compliance monitoring activities. Council's broad awareness of currently operating commercial premises provides for improved operational

administration of the proposed licensing intervention than that which could be applied by PHU's.

Ongoing concerns

When premises decide to stop providing sunbed services, the disposal of sunbeds can present a dilemma. Some operators have stated that the beds are difficult to move, with some stating that they may need to demolish walls to remove sunbeds. In 2009, a trend of selling second hand beds on Trademe© or other 'buy, sell and exchange' mediums to individuals to use at home was noted.

Some sunbed providers were not included in the surveys. These include home based operations and hire-companies who rent sunbeds to clients, who then presumably have full control of the duration and frequency of UV exposure.