

I hereby give notice that an ordinary meeting of the Regulatory and Bylaws Committee will be held on:

Date: Tuesday, 19 August 2014
Time: 1.30pm
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Regulatory and Bylaws Committee

OPEN AGENDA

MEMBERSHIP

| | |
|---------------------------|--|
| Chairperson | Calum Penrose |
| Deputy Chairperson | Denise Krum |
| Members | Cr Bill Cashmore Cr Linda Cooper, JP Cr Alf Filipaina Cr Sharon Stewart, QSM Member John Tamihere Cr John Watson Member Glenn Wilcox Cr George Wood, CNZM |
| Ex-officio | Mayor Len Brown, JP Deputy Mayor Penny Hulse |

(Quorum 5 members)

Rita Bento-Allpress
Democracy Advisor

13 August 2014

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TERMS OF REFERENCE

The Regulatory and Bylaws Committee will be responsible for:

- Considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards);
- Regulatory fees and charges in accordance with the funding policy;
- Recommend bylaws to Governing Body for special consultative procedure;
- Appointing hearings panels for bylaw matters;
- Review Local Board and Auckland water organisation proposed bylaws and recommend to Governing Body;
- Set regulatory policy and controls, and maintain an oversight of regulatory performance;
- Engaging with local boards on bylaw development and review; and
- Exercising the Council's powers, duties and discretions under the Sale of Liquor Act 1989 and the Sale and Supply of Alcohol Act 2012

Relevant legislation includes but is not limited to:

Local Government Act 2002;
Resource Management Act 1991;
Local Government (Auckland Council) Act 2009;
Health Act 1956;
Dog Control Act 1996;
Waste Minimisation Act 2008;
Land Transport Act 1994;
Maritime Transport Act 1994;
Sale of Liquor Act 1989;
Sale and Supply of Alcohol Act 2012; and
All Bylaws.

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1 Apologies

Apologies from Cr LA Cooper and Cr A Filipaina have been received.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

3 Confirmation of Minutes

That the Regulatory and Bylaws Committee:

- a) confirm the ordinary minutes of its meeting, held on Tuesday, 22 July 2014 as a true and correct record.

4 Petitions

At the close of the agenda no requests to present petitions had been received.

5 Public Input

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

6 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the

public,-

- (i) The reason why the item is not on the agenda; and
- (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

8 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

Information Only: Resolutions from the Independent Māori Statutory Board - Bylaws Hearings Appointments

File No.: CP2014/16304

Purpose

1. To note the resolutions carried by the Independent Māori Statutory Board at their meeting of 14 July 2014.

Executive summary

2. The Independent Māori Statutory Board has requested that its decisions regarding board appointments to Auckland Council bylaws hearings panels be noted by the Regulatory and Bylaws Committee.

Recommendation

That the Regulatory and Bylaws Committee:

- a) note the Independent Māori Statutory Board resolved as follows at its 14 July 2014 meeting:

Board Appointments to Proposed Auckland Council Policy and Bylaws Hearings Panels

Resolution number IMSB/2014/59

MOVED by L Ngamane, seconded by K Wilson:

That the Independent Māori Statutory Board:

- a) *receives this report;*
- b) *agrees to appoint one Board member to the following Hearings Panels:*
 - i) *Outdoor Fires*
 - ii) *Stormwater Management*
 - iii) *Air Quality*
 - iv) *Trading and Events in Public Places*
- c) *Agrees that Glenn Wilcox will be the Board's representative on these panels and that the [IMSB] Chair will authorize any replacements required.*

Attachments

There are no attachments for this report.

Signatories

| | |
|-------------|--|
| Authors | Rita Bento-Allpress - Democracy Advisor |
| Authorisers | Warren Maclennan - Manager North West Planning |

Feedback for Proposed Long-term Plan 2015-2025 Performance Measures

File No.: CP2014/16435

Purpose

1. To receive an overview of the performance information review process and outline the process to finalise the LTP 2015-25 performance information and targets.
2. To provide feedback on the performance measures proposed by the business in order to aid the development of the measures in the draft LTP 2015-25.

Executive summary

3. Following the process agreed at the Finance and Performance Committee meeting on 19th June 2014, the business have developed a draft set of proposed Levels of service statements and performance measures for the groups of activities that are relevant for this Committee (Resolution no. FIN/2014/37).
4. This performance information is currently being reviewed by officers and internal stakeholders. Our intention is to collate all feedback from this committee and our internal process and provide this to the business.

Recommendation/s

That the Regulatory and Bylaws Committee:

- a) receive the draft level of service statements and performance measures for the Regulation groups of activity.
- b) provide feedback on the proposed statements and measures, either through this committee meeting or subsequently by emailing longtermplan@aucklandcouncil.govt.nz

Comments

5. The Performance Measure work-stream is conducting a council and CCO wide review of performance measures for the Long-term Plan 2015-2025. This process was outlined and agreed at the Finance and Performance Committee on 19th June 2014 (Resolution no. FIN/2014/37).
6. The intended outcome of this in-depth review is that there will be a succinct set of community focused performance measures for each group of activities proposed for the draft LTP, which is aligned to the Auckland Plan.
7. This work needs to be substantially completed (including political engagement) by the end of October 2014 to support publication of the draft LTP for public consultation in early 2015.
8. The business has completed an in-depth review of their level of service statements and measures and these have been provided in an attachment to this report. This performance information is currently under review by key internal stakeholders and officers, including IMSB.
9. Feedback provided through this committee, our internal processes and IMSB, will be provided back to the business for them to finalise their proposed performance information.

10. These performance measures will have targets that will reflect the intended levels of service to be delivered by the council and CCOs and which will align with financial budgets. These targets will be discussed at the budget committee workshops in September 2014.
11. The Budget Committee will review the entire suite of measures and targets proposed for inclusion in the LTP 2015-25 between September and October 2014. The Budget Committee will adopt the measures and targets on 5th November 2014.

Consideration

12. Performance Information proposed for the Regulatory group of activity is included in Attachment A.
13. The internal review is considering feedback to the business to ensure that the business:
 - a) reduces the number of measures that are reported at the LTP level where possible,
 - b) reduces an over-reliance of survey related measures, especially at a local level, where sampling errors are significant, and
 - c) includes only those measures that have a robust reporting methodology in place and are important in describing the Council's performance.

Auckland Plan Alignment

14. In developing performance measures, we are ensuring alignment of levels of services with Auckland plan outcomes and targets which have been set.
15. The performance measures will be considered only for those levels of services that directly contribute to or enable an Auckland plan target to be met.

Local board views and implications

16. Local boards are currently in the process of providing feedback on performance measures at Local Boards Workshops and meetings through August. This feedback will be used in finalising the performance information. Once the Budget Committee have endorsed the performance measures, we will engage with Local Boards to determine their targets. This is expected to take place in September 2014.

Maori impact statement

17. The draft and existing Maori outcome related performance measures that are being reviewed. Te Waka Angamua and IMSB are part of the key stakeholders group for this work-stream and are providing feedback and support on that part of the review. The feedback received will be used to further develop the current draft performance information.

Implementation

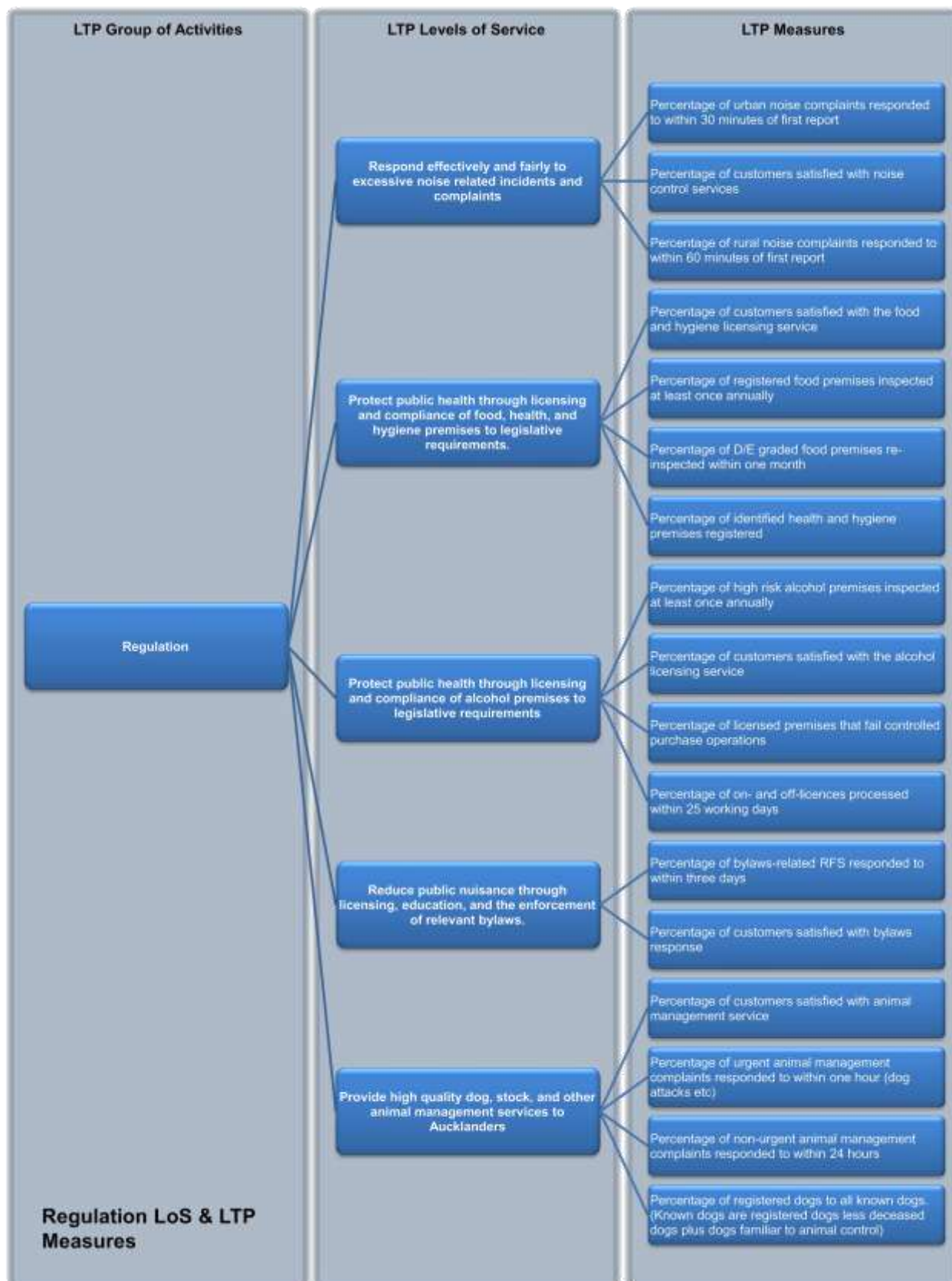
18. No significant implementation issues are applicable.

Attachments

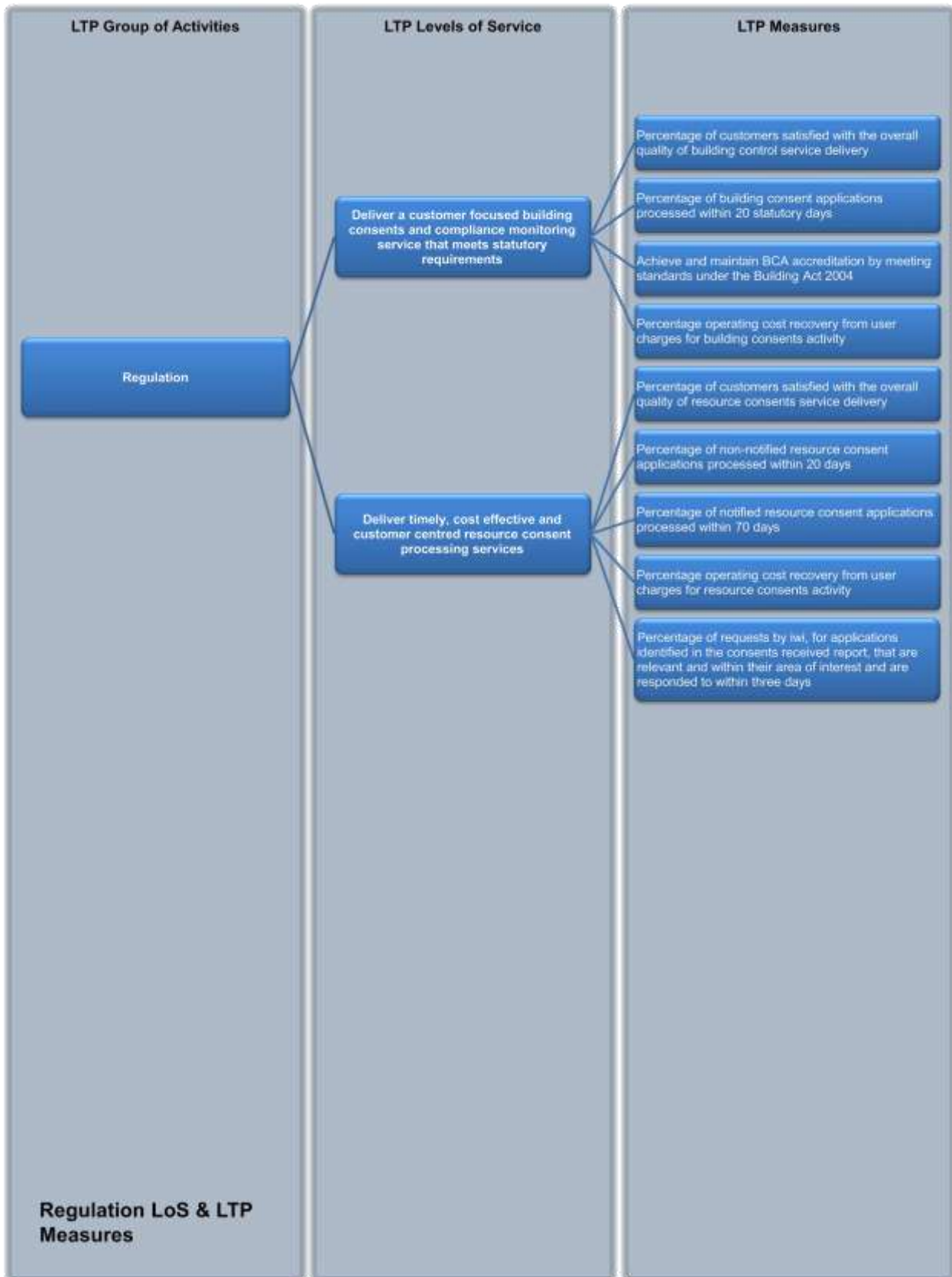
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| A | Regulation - LoS & LTP Measures | 11 |

Signatories

| | |
|-------------|--|
| Authors | Taryn Crewe – Financial Planning Manager |
| Authorisers | Matthew Walker - Manager Financial Plan Policy and Budgeting Warren MacLennan - Manager North West Planning |



Item 10
Attachment A



Stormwater Bylaw Review 2014 - Statement of Proposal

File No.: CP2014/16518

Purpose

1. To recommend to the governing body to adopt the Statement of Proposal (including a Summary of Information, the proposed Stormwater Bylaw 2014 and a revocation of the three legacy stormwater bylaws) for consultation using the special consultative procedure.

Executive summary

2. Following the amalgamation of the seven former territorial authorities and the Auckland Regional Council on 1 November 2010, Auckland Council inherited three legacy bylaws that address issues relating to stormwater management. In addition, two legacy councils suspended the development of their draft stormwater bylaws, pending the establishment of the new Auckland Council. All of the legacy councils used a mix of regulatory and non-regulatory approaches to manage stormwater.
3. The issues relating to stormwater have been identified through a review of the legacy stormwater bylaws and draft bylaws, the regional and district plan rules, the proposed Unitary Plan rules, the provisions of the Auckland Plan, the Long Term Plan 2012 – 2022 and the Māori Responsiveness Framework and the Māori Plan for Tamaki Makarau relating to the management of stormwater and a review of relevant national policy statements and the enabling legislation. Pre-consultation meetings were held with political, internal and external stakeholders. These stakeholders include elected members of the Governing Body (Regulatory and Bylaws Committee workshop), 21 local boards, iwi representatives, council departments and units and the council-controlled organisations.
4. It is considered that the proposed stormwater bylaw is the most appropriate mechanism to provide for the issues contained in it. The proposed bylaw has been prepared on the basis of those activities considered appropriate for regulation by bylaw rather than through the proposed Unitary Plan. The proposed bylaw has been developed to be supportive of and supplementary to the proposed Unitary Plan rules and other stormwater management methods used or available to the council. Where stormwater bylaws have been effective for the three legacy councils, similar provisions have been retained in the proposed new bylaw. This means that these approaches have been harmonised and extended across Auckland to ensure the best outcomes.
5. The key purpose of the proposed bylaw is to provide a consistent regulatory approach for stormwater management across Auckland. The outcomes sought from the proposed bylaw include:
 - ensuring the development, management and protection of the public stormwater network and private stormwater systems to a consistently high standard throughout Auckland;
 - requiring on-site stormwater devices on private land to be properly maintained, as they form part of the wider stormwater network; and
 - managing works and activities on private property that have adverse impacts on the public stormwater network.
6. The proposed bylaw will introduce new stormwater regulations to the legacy areas not currently regulated by a bylaw. To enable Auckland Council to respond appropriately to different local conditions across Auckland, provision is made in the proposed bylaw for controls to be made by the council by publicly notified resolution. This will enable the council to provide measures suited to local conditions (for example different ground soakage standards, depending on soil types). This approach may also be useful in moving from the different standards and practices in the different legacy areas to a consistent region-wide approach, as and when appropriate.

Recommendations

That the Regulatory and Bylaws Committee:

- a) recommend to the governing body of Auckland Council that it resolves (i) to (vi) as follows:
 - i) That pursuant to section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way to:
 - manage the development and maintenance of the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network;
 - protect the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network, from damage, misuse or loss;
 - manage the use of the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network, and provide for the conditions on which connections to the public stormwater network may be made or maintained;
 - prevent interference with the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network;
 - manage the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network, so as to protect the public from nuisance and promote and maintain public health and safety;
 - provide measures to support the management and enhancement of the natural part of the stormwater network; and
 - ensure the maintenance and operation of private stormwater systems, the removal of redundant stormwater systems on private land and the management of hazardous materials to prevent damage to the stormwater network.
 - ii) That pursuant to section 155(2)(a) of the Local Government Act 2002, the proposed Stormwater Bylaw 2014 (*Appendix 1 to the Statement of Proposal*) is the most appropriate form of bylaw to address problems related to the management of stormwater identified as in scope
 - iii) That pursuant to section 155(2)(b) and section 155(3) of the Local Government Act 2002, the proposed Stormwater Bylaw 2014 is not inconsistent with the New Zealand Bill of Rights Act 1990
 - iv) That pursuant to section 62 of the Local Government (Auckland Transitional Provisions) Act 2010, the Auckland Council proposes to revoke the following legacy stormwater bylaws (and replace them with a new region-wide stormwater):
 - Auckland City Council Bylaw No 18 Stormwater Management 2008;
 - Papakura District Council Stormwater Bylaw 2008; and
 - Chapter 21 (Stormwater drainage) of the Rodney District Council General Bylaw 1998.
 - v) That pursuant to sections 83 and 86 of the Local Government Act 2002, Attachment A: *Statement of proposal - Review of stormwater bylaws* be adopted for public consultation
 - vi) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the governing body

- b) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the Regulatory and Bylaws Committee.

Comments

7. Auckland Council inherited three legacy bylaws that address issues relating to stormwater management. In addition, two legacy councils suspended the development of their draft stormwater bylaws, pending the establishment of the new Auckland Council. Under Section 62 of the Local Government (Auckland Transitional Provisions) Act 2010, the three legacy stormwater bylaws are deemed to have been made by the Auckland Council (the council) and remain in force in the areas in which they applied at the close of 31 October 2010. Section 62 of that Act also requires the council to confirm, amend or revoke each bylaw before 31 October 2015. If nothing is done to confirm, amend or revoke them, the three existing bylaws will automatically be revoked on the 31 October 2015.
8. To meet those requirements, the council proposes to revoke the existing bylaws on stormwater and to replace them with a single bylaw to complement other strategic policies or operational plans and practices of the Auckland Council, including The Auckland Plan and the Proposed Unitary Plan.
9. Section 146(b) of the Local Government Act 2002 enables the making of a bylaw for the purpose of managing land drainage. In addition, the Local Government Act 1974, the Local Government Act 2002, the Land Drainage Act 1908 and the Resource Management Act 1991 enable Auckland Council to take further measures for the management of stormwater. The use of the proposed Stormwater Bylaw 2014 (Appendix 1 to the Statement of Proposal) is the most appropriate method to meet the council's statutory requirements in relation to the management of Auckland's stormwater system to meet the current and future needs of communities for good-quality local infrastructure in a way that is most cost-effective for households and businesses.

Review of legacy bylaws

10. Following the amalgamation of the seven former territorial authorities and the Auckland Regional Council on 1 November 2010, Auckland Council is required to review all of the legacy bylaws by 31 October 2015. After this time the current bylaws will be revoked pursuant to the Local Government (Auckland Transitional Provisions) Act 2010.
11. Reviewing the use of the legacy bylaws has indicated the following:
- a bylaw enables the effective and efficient enforcement of stormwater-related provisions in local government legislation, an approach that reduces the timeframes associated with resolving most problems;
 - a bylaw extends the toolkit to deal with stormwater problems that are not covered by activity-based regulations (e.g. resource and building consent compliance);
 - a bylaw is generally only enforced if voluntary compliance and complementary education and environmental programmes do not achieve the required outcomes, but it does provide a mechanism to ensure compliance with the council's requirements.
12. The perceived problems have been identified through a review of these legacy bylaws, the district plans, the proposed Unitary Plan, the Auckland Plan, the Long-term Plan and the Māori Responsiveness Framework. Staff have consulted with local boards, iwi representatives, Auckland Transport and Watercare Services Limited and council departments to identify issues of concern and appropriate options. This review has considered the approaches used by the former councils, covering both the regulatory approaches and the non-regulatory approaches used to address particular issues. Through this review, staff have considered whether regulation of stormwater management through a bylaw is appropriate, or whether the council should rely on alternative regulatory or non-

regulatory options. A summary of the recommended approach and reason for the recommendation is set out in table 1 below.

Item 11

| Specific problem | Outcome sought | Strategic alignment | Mechanisms/Options | Recommended option |
|--|--|---|---|---|
| Development and maintenance of an effective public stormwater network | A consistently high standard of stormwater infrastructure across Auckland | Strategic directions and actions identified in <i>The Auckland Plan</i> : <ul style="list-style-type: none"> Develop and protect network utility infrastructure to ensure secure and resilient water supply, wastewater, stormwater services. Ensure sustainable design and use of water resources. Acknowledge ecosystem services, including processes such as filtering pollution. Take account of environmental constraints when considering the location and nature of any future development. Integrate planning of network utility infrastructure to provide for population growth. | 1A No action by the council (the “do nothing” option) 1B Education and Industry guidelines 1C Minimum standards enforced through a bylaw | <i>Option 1B. Education and industry guidelines</i> This option can support aspects of the required outcomes and may be pursued by the council alongside the proposed bylaw. <i>Option 1C. Minimum standards enforced through a bylaw</i> This option will deliver the required outcomes and is recommended. |
| Protection of the natural and built stormwater network | Managing the works and activities that adversely affect the stormwater network | Strategic directions and actions identified in <i>The Auckland Plan</i> : <ul style="list-style-type: none"> Develop and protect network utility infrastructure to ensure secure and resilient water supply, wastewater, stormwater services. Ensure sustainable design and use of water resources. Improve the management of discrete and diffuse sources of land and water pollution Manage riparian margins for biodiversity, amenity, connectivity and ecosystem services. Protect wetlands to increase benefits such as flood mitigation, nutrient filtration, habitat for indigenous biodiversity and associated ecosystem services. | 2A No action by the council (the “do nothing” option) 2B Education and environmental programmes 2C Industry accords 2D Regulating activities that affect the public stormwater network | <i>Option 2B. Education and environmental programmes</i> This option can support parts of the required outcomes and may be pursued by the council alongside the proposed bylaw. <i>Option 2C. Industry accords</i> This option can support parts of the required outcomes and may be pursued by the council alongside the proposed bylaw. <i>Option 2D. Regulating activities that affect the public stormwater network</i> This option will deliver the required outcomes and is recommended. |

| Specific problem | Outcome sought | Strategic alignment | Mechanisms/Options | Recommended option |
|--|---|---|---|---|
| Monitoring and enforcement of stormwater issues on private property | Managing works and activities on private property that adversely affect the public stormwater network | Strategic directions and actions identified in <i>The Auckland Plan</i> : <ul style="list-style-type: none"> Develop and protect network utility infrastructure to ensure secure and resilient water supply, wastewater, stormwater services. Manage land to support the values of water bodies Improve the management of discrete and diffuse sources of land and water pollution | <p>3A No action by the council (the “do nothing” option)</p> <p>3B Education strategies and initiatives</p> <p>3C Regulate, through a bylaw, for the protection of the public stormwater system from works and activities on private property</p> | <p><i>Option 3B. Education strategies and initiatives</i></p> <p>This option can support parts of the required outcomes and may be pursued by the council alongside the proposed bylaw.</p> <p><i>Option 3C. Regulate, through a bylaw, for the protection of the public stormwater system from works and activities on private property</i></p> <p>It is considered that this problem should be addressed through a bylaw.</p> |

Table 1

- As per the table above, the recommended option for the issues identified is to include provisions relating to stormwater management in a new Auckland Council bylaw. Retaining the legacy bylaws is not an appropriate way to address the issues identified, as they lack regional consistency and do not apply Auckland-wide. Therefore this report recommends that the council revokes the clauses which will be replaced by the proposed bylaw. The proposed region-wide bylaw brings all the stormwater management measures not contained in the proposed Unitary Plan into a single regulatory control.
- In determining the most appropriate form of the bylaw, staff have reviewed legacy public stormwater bylaws, district plans and the proposed Unitary Plan. Where regulatory approaches contained in the legacy bylaws or district plan rules have proven to be effective but have not been included in the proposed Unitary Plan, they have generally been retained in the proposed new bylaw. This allows these approaches to be harmonised and extended Auckland-wide. The proposed bylaw will continue to provide reasonable controls for the management of stormwater. The proposed bylaw does not cover any issues not previously included in Auckland’s legacy bylaws or the district plan rules. The proposed bylaw will continue to support the non-regulatory approaches that have consistently worked well in parts of Auckland.

Outcomes sought

- The key purpose of the proposed bylaw is to provide a consistent regulatory approach for stormwater management across Auckland. The outcomes sought from the proposed bylaw include:
 - ensuring the development, management and protection of the public stormwater network and private stormwater systems to a consistently high standard throughout Auckland;
 - requiring on-site stormwater devices on private land to be properly maintained, as they form part of the wider stormwater network; and
 - managing works and activities on private property that have adverse impacts on the public stormwater network.
- The proposed Unitary Plan and the existing legacy regional and district planning documents under the Resource Management Act 1991 have a primary role in managing adverse effects on the environment. While the proposed bylaw aims to protect both the built and natural elements of the stormwater network, the main focus of the bylaw is on operational issues (that is, developing, managing and protecting the stormwater network).
- Activities proposed to be regulated by the draft bylaw are included in Table 2 below:

Item 11

| | Description | Proposed approach - bylaw clauses |
|---|---|---|
| 1 | | 1 Title 2 Commencement 3 Application |
| 2 | Part 1 - Preliminary provisions | 4 Purpose 5 Interpretation |
| 3 | Part 2 – General | 6 Controls and code of practice 7 Controls specified under the bylaw |
| 4 | Part 3 – Safe and efficient stormwater network | Subpart 1- Stormwater network development and protection 9 Stormwater network development and connections 10 Works and activities in close proximity to the stormwater network 11 Obstructions and diversions of stormwater 12 Alterations or damage to public stormwater network 13 Alterations or damage to natural stormwater network 14 Ground soakage systems 15 Discharge of contaminants to the stormwater network |
| 5 | Part 3 contd | Subpart 2 – On-site stormwater management 16 On-site stormwater management controls |
| 6 | Part 3 contd | Subpart 3 - Private stormwater systems 17 Maintenance and operation of private stormwater systems 18 Removal of redundant system 19 Hazardous materials |
| 7 | Part 4 - Approvals, permits and administrative matters | 20 Application for approval of the council 21 Consideration of application for approval 22 Conditions of approval 23 Non-compliance with conditions of an approval 24 Controls for the maintenance and construction requirements |
| 8 | Part 5 – Enforcement, offences and penalties | 25 Enforcement 26 Removal of construction 27 Breaches of the bylaw 28 Exceptions |
| 9 | Part 6 - Savings, transitional provisions and revocation | 29 Savings and transitional provisions 30 Revocations |

Table 2

18. Chapter 4 of the Auckland Council Code of Practice for Land Development and Subdivision (the Code of Practice) sets out minimum requirements for the design and construction of stormwater systems for land development and subdivision where the stormwater infrastructure is intended to be vested to the Auckland Council for ongoing operation and maintenance, together with eventual replacement.
19. While the proposed bylaw refers to the Auckland Council Code of Practice, the Code of Practice is not being consulted on through this bylaw review process. A separate consultation process is being undertaken for the Code of Practice. In addition, except where there is an explicit reference to specific parts of the Code of Practice, the proposed bylaw does not enforce any part of the Code of Practice until it is adopted as a specified control of the bylaw (under Part 2 of the bylaw).

Revoking legacy bylaws

20. The council propose to revoke the following legacy stormwater bylaws:

- Auckland City Council Bylaw No 18 Stormwater Management 2008;
- Papakura District Council Stormwater Bylaw 2008; and
- Chapter 21 (Stormwater drainage) of the Rodney District Council General Bylaw 1998.

Consideration

Local board views and implications

21. The views of the local boards were sought through 21 local board workshops in August 2013 to discuss the review and obtain feedback on the Issues and Options paper presented to the local boards. Local boards supported the outlined approach for regulation of the issues through the proposed Unitary Plan and the proposed bylaw. Local boards provided views on the use of the Code of Practice, management of surface water, the environmental considerations and private land owner responsibilities. However, input often focused on local operational issues of concern and staff of the Stormwater Unit (Infrastructure and Environmental Services department) present at the workshops responded to these concerns.

Maori impact statement

22. Stormwater management is critical to Māori as kaitiaki who are culturally responsible for the well-being of the mauri of freshwater, the sea and other receiving waters. The council recognises these kaitiaki responsibilities and wants to ensure an outcome where kaitiaki concerns are addressed where possible in the management of the public stormwater system. Areas of concern to Māori as kaitiaki include water quality monitoring and treatment, pest control, waste disposal and stormwater treatment.
23. Council staff presented at two hui held in Manukau and Orewa in October 2013 to discuss the management of stormwater through a bylaw and were able to hear the views of the iwi representatives that attended. The two hui were part of the ongoing engagement by staff with mana whenua on stormwater management and input by Maori to the proposed Unitary Plan has been considered in the drafting of the proposed bylaw.
24. Input from mana whenua into the proposed Unitary Plan and during the early consultation process for the proposed stormwater bylaw indicates that land-based treatment systems are the generally preferred option for stormwater treatment and purification. Mana whenua support policies and practices that ensure stormwater systems are discharged via land-based designs rather than directly into waterways. Preference is given to measures that separate stormwater treatment and purification systems from wastewater systems.
25. Mana whenua representatives advised that the preservation and addition of appropriate vegetation in riparian areas assists in enhancing water quality and purity and that they will support measures that clean up pest plants in or alongside waterways. Council staff were also advised of concerns about the effects of run-off, silting and sedimentation build-up in waterways and for measures that prevent or avoid erosion and the discharge of sediment and pollutants in waterways.
26. The importance of wetlands to mana whenua was emphasised and support expressed for measures that protect wetlands and that sustain appropriate water levels in the rohe. Water levels should be sustained to ensure the avoidance of negative effects on wetlands, creeks, rivers, lakes and the species that inhabit them. These water bodies are the spawning grounds and nurseries for many species. Tangata whenua support measures to ensure fish can maintain traditional migratory routes and there is a healthy flow of water maintained to feed the river and ephemeral streams. Blocked waterways and drains must be kept clear.
27. There was support for ensuring mana whenua access to the natural stormwater network for the sustainable harvesting of natural resources such as flax and food.

28. The input of tangata whenua is generally commensurate with input from the local boards and community and environmental groups that have been consulted and has been accommodated within the provisions of the proposed bylaw.

General

29. The Regulatory and Bylaws Committee has the delegated authority to recommend that a bylaw is the most appropriate way of addressing the issues relating to the management stormwater. The committee can also recommend that the proposed bylaw is the most appropriate form of the bylaw and should be recommended to the governing body for formal public consultation via the special consultative procedure.
30. The list of issues and the proposed bylaw have been developed through pre-consultation with political, internal and external stakeholders, including elected members of the governing body (Regulatory and Bylaws Committee Working Party), all local boards, iwi representatives, Auckland Transport, Watercare Services Limited and council departments and units.

Implementation Issues

31. The proposed bylaw has been prepared on the basis of those activities considered appropriate for regulation. Where regulatory approaches have been effective for the legacy councils they have generally been retained in the proposed new bylaw. This means that these approaches have been harmonised and extended across Auckland. The issues covered in the proposed bylaw were common to the legacy bylaws.
32. Work is underway through the Bylaw Review and Implementation Programme (IBRI) to support departments responsible for implementation (Infrastructure and Environmental Services, Building Consents and Resource Consents) to implement this proposed bylaw. This will involve the development of an operational procedures policy manual and extensive training of council staff.

Attachments

| No. | Title | Page |
|-----|--|------|
| A | Statement of proposal - Review of stormwater bylaws <i>(Under Separate Cover)</i> | |
| B | Proposed Stormwater Bylaw 2014 (Appendix 1 to the Statement of Proposal) <i>(Under Separate Cover)</i> | |

Signatories

| | |
|-------------|--|
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| Authorisers | John Dragicevich - Manager Infrastructure and Environmental Services Warren Maclennan - Manager North West Planning |

Outdoor Fires Bylaw Review - Statement of Proposal

File No.: CP2014/16926

Purpose

1. To recommend to the governing body that a bylaw is the most appropriate way to address identified perceived problems associated with the risk of fire in the outdoors and to recommend the adoption of a statement of proposal (with a proposed bylaw) for public consultation.

Executive summary

2. The Local Government (Auckland Transitional Provisions) Act 2010 requires the council to confirm, amend or revoke inherited bylaws relating to outdoor fires before 31 October 2015 in accordance with the Local Government Act 2002.
3. Auckland Council (the council) has inherited four bylaws from the former legacy councils relating to outdoor fires. These bylaws are deemed to be made by the council and remain in force in the areas in which they applied. The council proposes to replace these bylaws with a new Auckland-wide outdoor fire safety bylaw that harmonises and supplements other outdoor fire regulation.
4. The primary reason for this proposal is to protect the public, property and the environment from the risk of fire in the outdoors.
5. In accordance with section 155 of the Local Government Act 2002, perceived problems associated with outdoor fires have been identified by reviewing the inherited bylaws, related outdoor fire regulation, fire incident information and through pre-consultation with identified internal, external and political stakeholders. The perceived problems identified relate to:
 - The potential risk of fire spreading from outdoor fire activities;
 - Auckland Council's ability to impose a total fire ban during periods of extreme fire hazard; and
 - The potential risk of fire spreading from other fire hazards.
6. Options to address the perceived problems have been assessed, having regard to the council's role and responsibility relating to outdoor fire regulation and the outcomes sought. In general, the options considered were: rely on existing legislation, use non-regulatory approaches and regulate by way of bylaw.
7. The most appropriate means to address the perceived problems has been determined as a new Auckland-wide bylaw, supported by non-regulatory approaches to educate and raise awareness of outdoor fire safety.
8. The council proposes to allow particular outdoor fire activities that are appropriate in urban areas and rural areas of Auckland. These activities have been aligned with other outdoor fire related controls, including the Auckland Council Proposed Unitary Plan outdoor burning rules and the Forest and Rural Fires Act 1977, to provide a consistent Auckland-wide approach.
9. The most significant change proposed is the ability for Auckland Council to impose a total fire ban in any parts of Auckland, including urban areas, which would prohibit the use of all outdoor fires (except when fuelled by gas) during periods of extreme fire hazard.
10. The council also proposes to set conditions for the lighting of outdoor fires, the disposal of live ash and storage of combustible materials, to reduce the risk of the outbreak or spread of fire in the outdoors.

11. This proposal has taken into account the principles of Te Tiriti o Waitangi, to provide an appropriate mechanism and operational practice that protects tikanga, whilst also protecting Māori from the risk of fire in the outdoors.

Recommendations

That the Regulatory and Bylaws Committee:

- a) recommend to the governing body of Auckland Council that it resolve (i) to (v) as follows:
- i) that pursuant to section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way of addressing certain issues relating to outdoor fires as identified in Attachment A;
 - ii) that under section 155(2)(b) of the Local Government Act 2002, the proposed Outdoor Fire Safety Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990;
 - iii) that under section 62 of the Local Government (Auckland Transitional Provisions) Act 2010, the Auckland Council proposes to revoke in full the four bylaws relating to outdoor fires (to be replaced with a new Auckland-wide bylaw on outdoor fire safety);
 - iv) that under sections 83 and 86 of the Local Government Act 2002, Attachment A: Statement of Proposal "Outdoor Fire Safety Bylaw, August 2014" be adopted for public consultation using the special consultative procedure.
 - v) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the Governing Body.
- b) agree that the Manager Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the Regulatory and Bylaws Committee that affect the Auckland Council bylaw.

Comments

12. Auckland has two fire districts - the Rural Fire District and the Urban Fire District. The Auckland Urban Fire District and Auckland Rural Fire District are managed separately under two specific Acts of Parliament.
13. Auckland Council is the Rural Fire Authority empowered by the Forest and Rural Fires Act 1977. Auckland Council is required to promote and carry out fire control measures in the Rural Fire District as the Rural Fire Authority.
14. The New Zealand Fire Service has a statutory role under the Fire Services Act 1975 to provide fire safety, fire prevention and fire extinction as the lead response agency for the Urban Fire District. However, the New Zealand Fire Service has no statutory role in regulating activities to prevent the spread of fires in the outdoors. As a result, bylaws have been developed by local authorities to ensure adequate outdoor fire regulation applies in the Urban Fire District. At least 49 New Zealand local authorities, including Auckland Council, manage the risk of outdoor fires under bylaw regulation.
15. Auckland Council has inherited four separate bylaws that regulate outdoor fires. These bylaws are deemed to be made by Auckland Council and remain in force in the areas in which they applied. The Local Government (Auckland Transitional Provisions) Act 2010 requires the council to confirm, amend or revoke inherited outdoor fire bylaws before 31 October 2015, in accordance with the Local Government Act 2002.

16. The council is empowered by the Local Government Act 2002 to make a bylaw that regulates outdoor fires to:–
 - protect the public from nuisance (s 145)
 - protect, promote and maintain public health and safety (s 145)
 - minimise the potential for offensive behaviour in public places (s 145)
 - prevent the spread of fires involving vegetation subject to sections 20 to 22 of the Forest and Rural Fires Act 1977 (s 146)
17. The legacy bylaws have been reviewed for the purpose of developing a consistent Auckland-wide bylaw that protects the public, their property and the environment from the risk of fire in the outdoors. In determining the most appropriate form of the bylaw, perceived problems associated with outdoor fires have been identified through a review of inherited bylaws, related fire regulation, fire incident information and through pre-consultation with identified internal, external and political stakeholders.
18. Analysis of each of the perceived problems has been prepared. This analysis includes a description of the perceived problem, options available to address the perceived problem, and the preferred option that most appropriately addresses the perceived problem (see Attachment A).
19. In summary, the options for addressing the perceived problems are:
 - Rely on existing regulation (“Do Nothing”)
 - Regulate through a new bylaw that applies to the Auckland Urban Fire District
 - Regulate through a new Auckland-wide bylaw that applies to the Auckland Urban and Rural Fire District
 - Use non-regulatory tools, such as education to raise awareness
20. The proposal is to replace the four legacy outdoor fire bylaws with a new Auckland-wide bylaw that harmonises and supplements existing outdoor fire regulation.
21. The council proposes to allow particular outdoor fire activities that are appropriate in the urban areas and rural areas of Auckland. These activities have been aligned with other outdoor fire regulation, including the Proposed Unitary Plan outdoor burning rules and the Forest and Rural Fires Act 1977, to provide a consistent Auckland-wide approach.
22. The most significant change proposed is the ability for Auckland Council to impose a total fire ban in any parts of Auckland, which would prohibit the use of all outdoor fires, except when fuelled by gas, during periods of extreme fire hazard.
23. The council also proposes to set conditions for the lighting of outdoor fires, the disposal of live ash and storage of combustible materials, to reduce the risk of the outbreak or spread of fire in the outdoors.
24. A summary of the recommended approach is set out in table 1 below.
25. While a new Auckland-wide bylaw is considered the most appropriate mechanism to address the perceived problems, non-regulatory tools that educate and raise awareness are important mechanisms that encourage positive behavioural change and voluntary compliance. Option D is therefore considered an appropriate supplementary tool.

Table 1: Summary of proposal

| Perceived problem | Option A: Rely on existing regulation (“Do Nothing”). | Option B: Bylaw regulation that applies to the Urban Fire District. | Option C: Auckland-wide bylaw regulation that applies to the Urban and Rural Fire District. | Option D: Use non-regulatory mechanisms to educate and raise awareness. |
|---|--|--|--|--|
| Problem 1: The risk of fire spreading from outdoor fires. | | | ✓ | |
| Problem 2: Ability to impose a total fire ban during periods of extreme fire hazard. | | | ✓ | |
| Problem 3: The risk of fire spreading from other fire hazards. | ✓ (in part) | | ✓ (in part) | |

Consideration

Local board views and implications

26. In July 2013, all local boards were invited to attend a workshop to discuss issues relating to outdoor fires in Auckland and the possible options to address these issues. Eleven local board representatives attended the workshop.
27. Some local boards have indicated their support for bylaw regulation, particularly those boards with significant vegetation in their board areas and are rural in nature, such as the Great Barrier Island and Franklin. Although these boards are mostly in the Auckland Rural Fire District, whereby the Forest and Rural Fires Act 1977 applies, further regulation is believed to be necessary to assist in reducing the number of fire incidents caused by outdoor fire activities. The use of fireworks, sky lanterns and other outdoor fire activities is an issue of concern for local boards and community members who seek stronger regulation, particularly in extreme fire hazard.

Maori impact statement

28. In June 2013, staff presented to iwi representatives at the Auckland Council Kaitiaki Forum an overview of the issues relating to outdoor fire in Auckland and the possible options to address these issues. Following the Kaitiaki Forum, two hui were arranged for northern and southern based iwi. All nineteen iwi were invited to attend the hui to discuss several bylaw review topics including outdoor fires. Five iwi representatives attended the two hui, these were Ngāti Whātua o Kaipara, Ngāti Maru/Te Patukirikiri, Ngāti Tamaoho and Ngai Tai ki Tāmaki. Mataawaka were also provided information on the issues and options considered by Auckland Council for managing outdoor fires.
29. The main issue identified through pre-consultation with Māori, is the potential impact a total fire ban might have on the use of hāngi. Mana whenua did support fire control measures that would assist with protecting forestry areas owned by Māori.

30. The council recognises that hāngi are an important part of tikanga Māori and are an effective way of cooking large amounts of food for significant events. In the event of extreme fire hazard, the proposal is to enable the council the power to impose a total fire ban that prohibits the use of all outdoor fires, except when fuelled by gas. However the council would approve some outdoor fires required for significant community or cultural events, such as hāngi required for tangihanga.
31. The council also consulted the New Zealand Fire Service Māori Liaison Officer for Auckland. The officer supported regulation that required prior approval for lighting outdoor fires in extreme fire hazard, to ensure the appropriate fire control measures are in place to protect Māori from the risk of fire.

Implementation

32. There are no major implementation issues for a new outdoor fire safety bylaw.
33. Fire permits will continue to be issued by Auckland Council in the Rural Fire District under the Forest and Rural Fires Act 1977. The council will also be responsible for approving outdoor fires in extreme fire hazard. This will be under the responsibility of the Civil Defence and Emergency Management Department.

Attachments

| No. | Title | Page |
|-----|--|------|
| A | Statement of Proposal Outdoor Fire Safety Bylaw 2014 (<i>Under Separate Cover</i>) | |

Signatories

| | |
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Signage Bylaw Review - Statement of Proposal

File No.: CP2014/17412

Purpose

1. To recommend to the governing body that a combined Auckland Council and Auckland Transport signage bylaw is the most appropriate way to address signage related issues.
2. To recommend that the governing body adopt the Statement of Proposal (including a report on the expected impacts of the proposed bylaw and the scale of change, a proposed combined bylaw and a revocation of the legacy council signs bylaw provisions) for consultation using the special consultative procedure.

Executive summary

3. Following the amalgamation of the seven former territorial authorities and the Auckland Regional Council on 1 November 2010, Auckland Council and Auckland Transport inherited twenty three sets of bylaws, district plan, and regional plan rules that address issues relating to signage.
4. In undertaking the aforementioned review staff have identified the appropriate mechanisms available to the council and Auckland Transport to address each problem. A combined bylaw has been produced. This reflects two complementary bylaws, one for the council and one for Auckland Transport. For the convenience of the public these two bylaws are combined in a single document, but the bylaw itself states which parts are made by, and apply to, which organisation.
5. The combined bylaw continues to regulate the issues covered by the legacy bylaws and district plan rules.
6. The review of the legacy signs bylaws, district plan and regional plan rules is a joint project between the council and Auckland Transport. Where a sign is on or visible from any road or public place (i.e part of the Auckland transport system) it is the responsibility of Auckland Transport under legislation.
7. The council is responsible for signage that is on or visible from any road or from any public place under the management and control of the council or a substantive council-controlled organisation and which is not part of the Auckland transport system.
8. A number of signage-related issues will be regulated by the Unitary Plan and not by this combined bylaw. These are
 - signs that advertise any business, service, goods, products or events that are not directly related to the primary use or activities occurring on the site of the sign; and
 - signage which is part of a comprehensive development or re-development of a site; and
 - signage within a scheduled historic heritage place.
9. Until such time as the Unitary Plan becomes operative, the legacy council district plans sign rules remain in force. This will mean for some areas of Auckland there will be both district plan rules and a bylaw governing the use of signs if the proposed bylaw is adopted. This is particularly significant for the Hauraki Gulf Islands, which falls outside the scope of the Unitary Plan but will continue to be covered by the Auckland Council District Plan Hauraki Gulf Islands Section - Operative 2013, in particular rules for buildings, objects, properties, and places of special value.

10. The road reserves of Auckland make up a significant proportion of the open public space in the region and consequently bylaws relating to public places often have a considerable focus on activities happening on or related to the roads. It is also common for bylaws to regulate activities in other public places (parks, reserves, beaches. To avoid confusion and ensure that consistent rules will continue to apply, the council and Auckland Transport have produced complementary draft bylaws, contained in one document.
11. An Auckland-wide approach to signage will ensure that vehicular and pedestrian safety is maintained by limiting obstruction and distraction caused by signage, as well as promoting the visual amenity value of Auckland's cultural character, its built and natural environments, and minimise nuisance.
12. The proposed bylaw is intended to complement other approaches undertaken by the council and other agencies for addressing the display of signage in Auckland, such as the industry accord that has been agreed between council and the Real Estate Institute of New Zealand (REINZ).
13. A combined Auckland-wide bylaw that enables the economic benefits to Auckland that are provided through signage aligns with the Auckland Plan's key strategic directives, to "grow a business-friendly and well-functioning city", along with its amenity values in which it seeks to "create a stunning city centre, with connected quality towns, villages and neighbourhoods".
14. A combined bylaw is the most appropriate mechanism to ensure that the use of signage in, on, or visible from a public place does not impact on vehicular or public safety, create an obstruction, or interfere with a person's or the community's ability to enjoy using the public realm. A combined bylaw promoting amenity values and providing for the safety of vehicular and pedestrian traffic will also ensure that acceptable standards are maintained for the well-being and enjoyment of Auckland's citizens and visitors.
15. The committee should note that the Statement of Proposal is a document which discusses both the proposed Auckland Council and Auckland Transport bylaws. However, the Auckland Transport components of the proposed bylaw and Statement of Proposal are the responsibility of Auckland Transport alone – the committee is only empowered to make recommendations on the proposed Auckland Council bylaw.

Recommendations

That the Regulatory and Bylaws Committee

- a) recommend to the governing body of Auckland Council that it resolve (i) to (viii) as follows:
 - i) that pursuant to section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way of addressing the issues relating to the display of signage that is on or visible from any road or from any public place under the management and control of the Auckland Council or a substantive council-controlled organisation and which is not part of the Auckland transport system;
 - ii) that pursuant to section 155(2)(a) of the Local Government Act 2002, the proposed draft Auckland Council signage bylaw is the most appropriate form of bylaw to address problems related to signage advertising commercial sexual services;
 - iii) that pursuant to section 155(2)(b) and section 155(3) of the Local Government Act 2002, as described in part 9 of the attached Statement of Proposal (**Attachment A**), the proposed draft combined Auckland Council and Auckland Transport signage bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990;
 - iv) that pursuant to section 62 of the Local Government (Auckland Transitional Provisions) Act 2010 and 156 of the Local Government Act 2002, Auckland Council revokes those clauses of the existing eleven bylaws that deal with

- issues of signage (and replaces them with a new Auckland-wide signage bylaw);
- v) that pursuant to sections 145, 146 and 149 of the Local Government Act 2002 and section 22(AB)(1)(y) and (zk) of the Land Transport Act 1998, the proposed draft combined Auckland Council and Auckland Transport signage bylaw is for the purposes of:
 - (a) providing for the safety of vehicular and pedestrian traffic on any road or public place under the management and control of the Auckland Council or a substantive council-controlled organisation and which is not part of the Auckland transport system, by limiting obstruction and distraction caused by signage;
 - (b) protecting the public from nuisance and from harm or damage caused by the poor maintenance or abandonment of signage;
 - (c) assist in enhancing, maintaining, and promoting the visual amenity value of Auckland's cultural character, and its built and natural environments
 - (d) enabling the economic benefits to Auckland that are provided through signage;
 - (e) assist in protecting council-owned or controlled assets from damage or misuse.
 - vi) that pursuant to sections 83 and 86 of the Local Government Act 2002, Attachment A: Statement of Proposal (including a report on the expected impacts of the proposed bylaw and the scale of change (**Attachment A: Appendix 1**), a proposed Auckland Council Signage Bylaw (combined with an Auckland Transport signage bylaw(**Attachment A; Appendix 2**) and a revocation of the legacy signs bylaw provisions) be approved for public consultation (noting that portions of this Statement of Proposal relate to Auckland Transport and that decisions relating to those portions will be made by Auckland Transport's board).
 - vii) that pursuant to section 63 of the Local Government (Auckland Transitional Provisions) Act 2010 Auckland Council confirms the following legacy council bylaws remain in force until such time as the proposed new signage bylaw becomes operational:
 - (a) Auckland City Council Signs Bylaw 2007;
 - (b) Franklin District Council Control of Signs Bylaw 2007;
 - (c) Chapter 19 (Temporary Signs) of the Manukau City Consolidated Bylaw 2008;
 - (d) North Shore City Part 12 (Control of Temporary Signs) Bylaw 2000;
 - (e) Papakura District Council Control of Advertising Signs Bylaw 2008;
 - (f) Rodney District Council, Chapter 22 of the General Bylaw 1998, (Temporary Signs).
 - viii) agree that the Manager, Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the Governing Body.
- b) appoint a hearing panel comprised of up to five members, that includes two representatives nominated by Auckland Transport and one by the Independent Māori Statutory Board, to hear submissions on the review of the signage bylaws, deliberate and make recommendations to the governing body and to the Board of Auckland Transport.

- c) delegate to the chairperson of the Regulatory and Bylaws Committee the power to make a replacement appointment to the hearings panel in the event that any member appointed by the committee under resolution (b) is unavailable.
- d) agree that the Manager, Policies and Bylaws be authorised to make any minor edits or amendments to the Statement of Proposal to correct any identified errors or typographical edits or to reflect decisions made by the Regulatory and Bylaws Committee.

Comments

Background

- 16. The issues this bylaw seeks to address have been identified through a review of the legacy bylaws and district plan rules, along with pre-consultation with political, internal and external stakeholders. Those stakeholders included elected members of the governing body (Regulatory and Bylaws Committee Working Party), all local boards, the Disability Strategic Advisory Group, council departments and units, and a wide range of key industry stakeholders. A full list of stakeholder engagement can be found in **Attachment B**.
- 17. Both Auckland Council and Auckland Transport have the ability under the Local Government Act 2002 to make bylaws to protect the public from nuisance, to protect, promote and maintain public safety, and to protect their land and infrastructure. In the case of Auckland Transport, this power can only be exercised in respect of the Auckland transport system, which includes the roads under Auckland Transport's control.
- 18. In addition to this ability, Auckland Transport and Auckland Council have the ability to make a bylaw pursuant to the Land Transport Act 1998. Auckland Transport has this ability (pursuant to the Local Government (Auckland Council) Act 2009) in relation to the Auckland transport system. Auckland Council has the same ability in relation to any land which is outside of the Auckland transport system.
- 19. Auckland Council also has power under the Prostitution Reform Act 2003 to make bylaws that prohibit or regulate signage advertising commercial sexual services that is in, or is visible from, a public place.
- 20. Auckland Council and Auckland Transport provide amenities in public places for the benefit of the public and must maintain those amenities. The public has a reasonable expectation that they can use or access public places without their right of passage being obstructed. The public also has an expectation that the primary use of public places will not be for the benefit of private enterprise, but for the safe passage of vehicles and pedestrians.
- 21. The road reserves of Auckland make up a significant portion of Auckland's open space, and consequently bylaws relating to public places often have a considerable focus on activities relating to the roads. Auckland Transport is responsible for the majority of those bylaws. However, it is common for bylaws to apply both to roads and other public places (e.g. parks and beaches). The legacy council bylaws and district plan rules had no need to distinguish between the two types of public place. To avoid public confusion it is considered best that Auckland Council and Auckland Transport produce complementary bylaws, so that consistent rules continue to apply across both types of public place.
- 22. By 31 October 2015 Auckland Council is required to review all of the bylaws it inherited from the former legacy councils. After this time those bylaws will be revoked pursuant to the Local Government (Auckland Transitional Provisions) Act 2010.

23. Auckland Council and Auckland Transport inherited twenty three sets of rules from the legacy councils in the form of bylaws, district plan rules and regional plan rules. There was generally a consistent approach taken by the legacy councils in regulating portable signage; such as sandwich boards. Those rules were intended to:
- set minimum safety requirements to protect traffic and pedestrian safety;
 - set maximum size requirements for all sign types;
 - set maximum numbers of permissible signs and the determine the location and duration of their use;
 - provide for visual amenity to protect and preserve Auckland's heritage.
24. For the purpose of the proposed new signage bylaw a sign is defined as: "An advertisement, message or notice conveyed using any visual medium, which advertises a product, business, service, event, or acts to inform or warn any person."
25. The bylaw seeks to address perceived problems with signage. The perceived problems have been identified through a review of legacy bylaws, district plan and regional plan rules. That review has considered the approaches used by the legacy councils for the control of signage, covering both the regulatory and the non-regulatory approaches used to address specific issues. Through this review, staff have recommended whether regulation through a bylaw is necessary, or whether the council and Auckland Transport should rely on alternative regulatory or non-regulatory options. Most issues were common amongst all or most of the legacy councils and have been retained in the proposed new bylaw.

Retaining legacy bylaw provisions

26. Following engagement with all of the local boards a request was made the existing prohibition on the use of portable signs in the central business district of central Auckland be retained in a new combined signage bylaw. As a result the council and Auckland Transport plan to retain certain provisions in the legacy Auckland City Council signs bylaw that addressed public open spaces, roads and parts of roads on which the placing of portable signage is prohibited. Further details can be found in **Attachment C**.

Consideration

Local board views and implications

27. The views of local boards have been sought on how best to address the issues identified. Staff attended workshops with 20 local boards during August and September 2013 (Great Barrier local board chose not to have a workshop).
28. In March and April 2014 staff undertook a further round of engagement with local boards to gather their views on whether they wanted the delegated decision making authority for four specific signage issues; namely:
- the placement of portable signs in areas with high volumes of pedestrian foot traffic;
 - the location of poster board sites;
 - the location of sites for displaying banners;
 - the display of event signage on dedicated sites.
29. The views of local boards on these four issues are summarised in **Attachment D**. Local boards are supportive of continuing to regulate the identified activities in complementary Auckland Council and Auckland Transport bylaws .

Māori impact statement

30. The proposed bylaw approach to regulating the use of public places for the display of signage seeks to ensure that acceptable standards of safety and visual amenity are maintained for the well-being and enjoyment of all of Auckland's citizens and visitors.
31. Staff undertook a literature view of key documents to gain a preliminary understanding of the impact the signage bylaw review potentially has on Māori. That review gathered an understanding of Māori world views and provided a strategic understanding for meaningful engagement.
32. Discussions with Māori indicated that bylaws dealing with signage should not be inconsistent with any policies that deal with issues such as protecting the view of historic places or those with specific cultural significance. Beaches are ecologically sensitive areas, especially dunes, and where the council has identified sensitive areas and provided particular access points, such as walkways, it is necessary to protect these areas. The proposed Auckland Council bylaw provides controls for the display of signage in public open spaces.
33. In order to determine the specific views of Māori staff attended the Regional Kaitiaki Hui on 30 July 2013 and presented to those Mana Whenua iwi authority representatives who were in attendance. In addition two Hui were held, one in the north of the region on 22 October 2013, and one in the south of the region on 23 October 2013.
34. Feedback from the literature review and engagement indicates that the proposed approach is not inconsistent with the Māori Plan for Tamaki Makaurau or the Auckland Plan's strategic direction of enabling Māori aspirations through the recognition of Te Tiriti o Waitangi and customary rights.

Implementation

35. Most of the issues covered in the draft Auckland Council and Auckland Transport bylaws were common to the legacy council temporary signs bylaws, district plan and regional plan rules. There is expected to be little impact on Licensing and Compliance Services in enforcing new complementary Auckland-wide bylaws. Where there is a change to the legacy council area rules this has been highlighted in the report on the expected impacts of the proposed bylaw and the scale of change (**Attachment A: Appendix 1**).
36. From an operational perspective the enforcement of the proposed new signage bylaw will be assigned to Licensing and Compliance Services and district plan rules will continue to be enforced by Resource Consents. In terms of hierarchy, Section 10 of the Resource Management Act 1991 describes activities that may qualify for 'existing use rights'. This means that the activity does not require resource consent. However, signage will still need to comply with any other applicable rules such as those included in bylaws. In other words, there could be existing use rights for the activity of displaying signs but any signs must still comply with any relevant bylaw provisions.
37. The rules in district plans regulate activities that cause environmental effects whereas the bylaw will regulate nuisance, safety issues etc. This means that the rules in one will be mainly different to the rules in the other and people will need to comply with both. However, there may be instances where the rules overlap, in which case the stricter approach will have to be followed in order to comply with both.

Attachments

| No. | Title | Page |
|-----|--|------|
| A | Statement of Proposal (<i>Under Separate Cover</i>) | |
| B | List of stakeholder engagement (<i>Under Separate Cover</i>) | |
| C | ACC portable signage prohibition (<i>Under Separate Cover</i>) | |
| D | Views of local boards (<i>Under Separate Cover</i>) | |

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| | |
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