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## Statement of Proposal: Draft Air Quality Bylaw for Indoor Domestic Fires

File No.: CP2016/25312

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### Purpose

1. To seek a decision on whether to make a bylaw to re-establish the regional rules for indoor domestic fires and recommend approval of a draft air quality statement of proposal.

### Executive summary

2. Auckland Council (“the council”) is responsible for managing the region’s air quality.
3. Central government established maximum levels for key air pollutants (“National Air Quality Standards”) and it is the council’s responsibility to ensure Auckland meets these standards.
4. Until recently, the council regulated the use of indoor domestic fires through the Auckland Council Regional Plan: Air, Land and Water (“former Regional Plan”). These rules have now expired as parts of the Unitary Plan have come into effect.
5. This means there is currently a gap in the regulation of indoor domestic fires in Auckland.
6. This report provides policy options for the Regulatory Committee to determine its response to the regulatory gap.
7. The report outlines the following two options for determining whether to fill the gap:
  - choose not to re-establish the regional rules
  - make a bylaw to re-establish the regional rules.
8. Staff recommend the council should re-establish the regional rules through a bylaw (Option A2). This would help the council to manage Auckland’s air pollution levels, particularly in winter when the risk of exceeding the National Air Quality Standards is greatest.
9. Staff consider that a bylaw is the most appropriate response to the problem as it will enable the council to re-establish the rules in time for winter 2017.
10. The report also outlines three options for applying the regional rules to urban Auckland. The former Regional Plan differentiated between urban and rural areas when regulating new indoor domestic fires. However, the definition of urban used is now outdated as Auckland’s urban form has changed.
11. Staff recommend the council should adopt a new definition of urban for the purposes of the bylaw, based on Unitary Plan zones (Option B3). This option would most accurately reflect Auckland’s current urban form.
12. Staff intend to consult with the public on all options, using the attached statement of proposal (Attachment A).
13. Following the Regulatory Committee meeting, staff will present the statement of proposal to the Governing Body for adoption. If the Governing Body adopts the statement of proposal, the council would accept written submission on the proposal throughout March 2017.

## Recommendation/s

That the Regulatory Committee:

- a) Agree that its preferred approach for the draft Air Quality Bylaw for Indoor Domestic Fires is to make a bylaw to re-establish the regulations for indoor domestic fires that were in the Auckland Council Regional Plan: Air, Land and Water 2010, and to define the “Auckland Urban Air Quality Area” as follows:

**EITHER**

- (i) **Option B1: Retain the former Regional Plan definition** – use the definition for “Urban Air Quality Management Area” that was in the Auckland Council Regional Plan: Air, Land and Water 2010.

**OR**

- (ii) **Option B2: Use the Auckland Urban and Township Air Sheds definition** – use the definition for “Auckland Urban Air Shed and the Township Air Shed” that was gazetted by the Ministry for the Environment in 2005.

**OR**

- (iii) **Option B3: Use the urban zones in the Unitary Plan** – use the urban zones set out in Attachment A, including the Unitary Plan and Hauraki Gulf Islands urban zones and those parts of the “Urban Air Quality Management Area” from the Auckland Council Regional Plan: Air, Land and Water 2010 that are located within the Unitary Plan Waitakere Foothills and Waitakere Ranges zones.

- b) Recommend that the Governing Body adopt the statement of proposal (Attachment A), which includes the draft Air Quality Bylaw for Indoor Domestic Fires, for public consultation under section 83 of the Local Government Act 2002.
- c) Recommend that the Governing Body forward the statement of proposal (Attachment A) to local boards for their views.
- d) Appoint a hearing panel comprised of three members of the Regulatory Committee, including one member of the Independent Maori Statutory Board, to hear submissions on the draft Air Quality Bylaw for Indoor Domestic Fires, deliberate and make recommendations to the Governing Body, subject to the Governing Body adopting the statement of proposal as per recommendation (b).
- e) Appoint one member of the hearing panel established under resolution (c) as chairperson of the hearings panel.
- f) Delegate authority to the chairperson of the Regulatory Committee to make replacement appointments to the hearings panel in the event that a member of the hearings panel is unavailable.
- g) Delegate authority, through the Chief Executive, to the Manager, Social Policy and Bylaws, 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 Committee or the Governing Body.

## Comments

### Background

#### Managing air quality in Auckland

14. Like the rest of New Zealand, Auckland's air quality is impacted by air pollution from several sources, including transport, indoor domestic fires and industry. Natural sources, such as sea spray and windblown dust, also play a role.
15. Auckland Council ("the council") is responsible for managing the region's air quality. Central government has established maximum levels for key air pollutants ("the National Air Quality Standards") and it is the council's responsibility to ensure these are met<sup>1</sup>.
16. Auckland's air quality has improved over the last two decades. However, it sometimes exceeds the National Air Quality Standards.
17. The risk of exceeding the National Air Quality Standards is greatest in winter, when smoke from Auckland's indoor domestic fires increases.

#### Regulating indoor domestic fires

18. The use and installation of indoor domestic fires in Auckland has been regulated through a combination of national and regional controls. The regulatory framework is summarised below.
19. Central government regulates the types of wood burners that can be installed through the "National Wood Burner Standards." The National Wood Burner Standards:
  - set minimum thermal efficiency and maximum emissions standards for wood burners
  - apply to all properties that are smaller than two hectares.
20. The council is responsible for implementing the standards. The council will only grant building consent to install a wood burner if the appliance meets the National Wood Burner Standards.
21. The installation of other types of indoor domestic fires in Auckland has been regulated by the Auckland Council Regional Plan: Air, Land and Water (the "former Regional Plan"). The former Regional Plan established its own technical standards for these other appliances.
22. The standards were implemented through the council's building consent process, i.e. only compliant appliances were approved for installation.
23. The former Regional Plan also established rules about the operation of indoor domestic fires, including:
  - rules to prevent nuisance to neighbouring properties e.g. from smoke
  - prohibitions on burning certain materials.
24. Outdoor fires are regulated separately through the Auckland Council Outdoor Fire Safety Bylaw 2014 and the Unitary Plan.

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<sup>1</sup> The national air quality standards are specified in the Resource Management (National Environmental Standards for Air Quality) Regulations 2004. These regulations also contain national standards about the installation of wood burners.

### Problem definition

25. The regulations for indoor domestic fires contained in the former Regional Plan have now expired. When the Unitary Plan came into effect, it replaced the former Regional Plan. While the Unitary Plan regulates other matters previously covered by the Regional Plan, it does not regulate indoor domestic fires.
26. The National Wood Burner Standards are not affected by the Unitary Plan. These standards continue to regulate the type of wood burners that can be installed at properties smaller than two hectares.
27. However, the former Regional Plan rules that regulated the installation of other types of indoor domestic fires no longer apply. The rules that restricted what Aucklanders can burn in their indoor domestic fires have also expired.
28. This has created a gap in the regulation of Auckland's indoor domestic fires.
29. When developing the Unitary Plan, the council indicated its preference for a bylaw to manage air quality issues from indoor domestic fires. This was a considered decision that a bylaw was the most appropriate regulatory tool as:
  - more restrictive bylaw rules about the use of open fires and burners were proposed at the time (no longer proposed)
  - a bylaw would provide an efficient decision making and enforcement process.
30. The risk of increased pollution is greatest in winter, when smoke from Auckland's indoor domestic fires increases. Without effective regulation, Auckland's air quality is more likely to deteriorate. This could impact public health as it increases the risk of Auckland's air quality exceeding the acceptable pollution levels set in the National Air Quality Standards.

### Decisions for the Regulatory Committee

31. In response to the regulatory gap, the council needs to determine the following:
  - whether to address the regulatory gap by re-establishing regional rules
  - and if so, how to apply those regional rules spatially to Auckland.
32. This report provides options for the Regulatory Committee's consideration in relation to each of these decisions.
33. Staff are seeking decisions on the Regulatory Committee's preferred options for public consultation. The council will consult with the public on all options. However, the Committee's decisions will be reflected in the statement of proposal, which forms the basis of consultation.

### Policy options to address gap in regulation

34. Staff have identified two options for responding to the gap in regulation of indoor domestic fires. Under both options, the council would continue to apply the National Wood Burner Standards. The options differ as follows:
  - **Option A1: No regional rules for indoor domestic fires** – the council would accept the regulatory gap and choose not to re-establish the rules for indoor domestic fires that were in the former Regional Plan
  - **Option A2: Address regulatory gap by re-establishing regional rules** – the council would adopt regional rules to regulate indoor domestic fires.

This would involve re-establishing the rules contained in the former Regional Plan. The council could introduce the rules through a public plan change or by making a bylaw.

### **Analysis of Options A1 and A2**

35. The following section provides further detail about the options proposed, as well as their advantages and disadvantages.

#### *Option A1: No regional rules for indoor domestic fires*

36. Under this option, the council would continue to apply the National Wood Burner Standards. However, the council would choose not to regulate the:

- installation of other indoor domestic fires
- nuisance effects of indoor domestic fires on neighbouring properties
- type of materials that can be burnt in indoor domestic fires.

37. The regulatory gap created by the Unitary Plan would continue and the rules from the former Regional Plan would not be reinstated.

**Table 1: Analysis of Option A1**

	<b>Analysis</b>
<b>Advantages</b>	<ul style="list-style-type: none"> <li>• the council would still be empowered to regulate enclosed wood burners by applying the National Wood Burner Standards. These rules apply to properties smaller than two hectares. The council would also regulated air pollution through the Unitary Plan, though not specifically in relation to indoor domestic fires</li> <li>• this would be a simpler regulatory framework to apply and communicate.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• the council could not regulate other types of indoor domestic fires and its ability to address complaints about local air pollution from smoky fires would be limited</li> <li>• the Auckland Urban Air Shed is categorised as “polluted”, due to several exceedances of the national standards in 2013. Most exceedances have occurred in winter, when emissions from indoor domestic fires are greatest. Not reinstating the regional rules would likely result in higher levels of winter air pollution, with negative impacts on public health and a higher risk of further exceedances</li> <li>• accepting the regulatory gap now would make it harder to reintroduce regional rules at a later date, and would create uncertainty and confusion.</li> </ul>

#### *Option A2: Address regulatory gap by re-establishing regional rules*

38. Under this option, the council would continue to apply the National Wood Burner Standards. In addition, the council would re-establish the regional rules for indoor domestic fires that were in the former Regional Plan.

39. The council could implement these regional rules as follows:

- it could amend the Unitary Plan through a public plan change. However the plan change process is costly and lengthy i.e. one to two years. It would involve full public consultation as well as potential appeals to the Environment Court. It is not feasible to complete a plan change process prior to winter 2017
- alternatively, the council could make a bylaw. This process also involves formal public consultation, but the decision would not be subject to appeals. The council could complete this process and implement the bylaw prior to winter 2017.

40. The bylaw would replicate the regional rules as outlined in the table below.

**Table 2: Comparison of former Regional Plan rules and draft bylaw**

	former Regional Plan		Draft bylaw		
	Rule description	Rule ref.	Included?	Clause description	Clause ref.
<b>Rules about ALL fires</b>	<b>Discharge rule:</b> Prohibited discharge of contaminants that would have significant impacts on human health and safety and on other properties	4.5.1(a)-(c) and 4.5.6	✓	Intent same as former Regional Plan, drafting updated	6(1)
	<b>Prohibited fuels:</b> Prohibited burning the following:				
	• wet wood – wood with a moisture content of more than 25 per cent	4.5.10	✓	Same as former Regional Plan	6(2)(a)
	• any fuel with high sulphur content greater than 0.5 per cent – e.g. high sulphur coal	4.5.10	✓		6(2)(b)
	• treated wood and wood products	4.5.9	✓		6(2)(d)
• rubbish or green waste	4.5.9	✓	6(2)(c) &(e)		
<b>Rules about NEW fires</b>	<b>National Wood Burner Standards:</b> The Regional Plan complemented the National Wood Burner Standards, which apply to properties smaller than two hectares. Wood burners installed after 1 September 2005 must meet:	Noted in Section 4.5	✓	Same approach as former Regional Plan	Noted at Cl. 7
	• design emission standard of less than 1.5 g/kg of fuel burned		✓		
	• thermal efficiency standards of at least 65%.		✓		
	<b>Use of indoor fires in urban areas:</b> Permitted use of new solid fuel burners in the Urban Air Quality Management Area, but only for appliances that meet the following emission standard:	4.5.7 and 4.5.1 (a)-(c)	✓	Same as former Regional Plan <sup>2</sup>	7(1)
	• 4 g/kg of fuel burned <sup>3</sup>		✓		
<b>Use of indoor fires in rural areas:</b> Permitted use of solid fuel burners in the Rural Air Quality Management Area, subject to the discharge rule.	4.5.5 and 4.5.1 (a)-(c)	✓	Use permitted in rural areas by default, but still subject to discharge rule.	6(1) and 6(2)	
<b>New gas or liquid burners:</b> Permitted use of new liquid fuel burners, subject to the discharge rule	4.5.4 and 4.5.1 (a)-(c)	✓	Same as former Regional Plan	6(1) and 6(2)	

<sup>2</sup> The draft bylaw includes transitional provisions for properties that are affected by any change in the definition of urban for the purposes of the bylaw.

<sup>3</sup> The national wood burner standard trumps the regional emission standard, as it is more restrictive. This means the emissions standard for the installation of wood burners in Auckland is less than 1.5 g/kg of fuel burnt (for installation in properties less than two hectares).

**Table 3: Analysis of Option A2**

	Analysis
<b>Advantages</b>	<p>re-establishing the regional rules would:</p> <ul style="list-style-type: none"> <li>• enable the council to regulate indoor domestic fires not covered by the National Wood Burner Standards</li> <li>• allow the council to address complaints about local air pollution problems from smoky fires</li> <li>• protect the city's air quality in winter, when air pollution increases with the use of indoor domestic fires; most of Auckland's exceedances of the National Air Quality Standards have occurred in winter</li> <li>• help to protect public health and reduce the risk of further exceedances. This is especially important as the city continues to grow</li> <li>• maintain certainty and consistency in how Auckland's indoor domestic fires are regulated.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• the combination of national and regional regulations is complex. The council would need to continue communicating these measures to Aucklanders</li> <li>• establishing non-compliance and enforcement of the rules will be difficult.</li> </ul>

**Summary of Options A1 and A2**

41. Staff have assessed each option against the following criteria to help determine the best option for responding to the regulatory gap. The first three criteria measure each option's alignment with the policy intent for regulating indoor domestic fires. The fourth measures the impact on Aucklanders in terms of regulatory certainty and continuity.

- **Impact on compliance with National Air Quality Standards** – whether the option would support the council's obligation to meet the National Air Quality Standards in order to protect public health
- **Ability to minimise nuisance impacts of indoor domestic fires** – the extent to which the option would minimise nuisance to neighbouring properties
- **Impact on the environment** – the extent to which the option would minimise the environmental impacts of indoor domestic fires
- **Level of certainty and continuity** – the extent to which the option provides certainty for Aucklanders to make decisions about the use and installation of indoor domestic fires.

42. Table 4 compares Options A1 and A2 against the criteria.

**Table 4: Criteria assessment**

Criteria	Option A1: <i>No regional rules</i>	Option A2: <i>Re-establish regional rules</i>
1 Ensures compliance with national standards and protects public health	✘	✓
2 Minimises the nuisance impacts	✘	✓✓
3 Ensures environmental protection	✘	✓
4 Ensures regulatory certainty and continuity	✘	✓

Key:

Rating against criteria	✓✓	✓	✘
	Good rating	Medium rating	Poor rating

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### Recommended approach for addressing gap in regulation

43. Staff recommend the preferred option in the statement of proposal should be to re-establish the regional rules that were in the former Regional Plan (Option A2).
44. Staff also consider a bylaw would be the most appropriate way of regulating domestic indoor fires and addressing the regulatory gap. It is an efficient regulatory approach that includes public consultation, but is not subject to lengthy appeal process. A bylaw approach has an efficient enforcement response to issues and avoids lengthy consenting and appeal processes in situations where non-compliance occurs.
45. This approach aligns with following previous council decisions:
  - In 2012, the Regional Development and Operations Committee agreed, in principle, that a bylaw approach should be considered as the preferred method for regulating domestic air pollution in Auckland, supplemented by Unitary Plan objectives and policies (resolution: RDO 2012/4). This position was recommended by the council's Environment and Sustainability Forum in December 2011 (resolution: ES/2011/174)
  - In June 2015, the Regulatory and Bylaws Committee directed staff to develop an air quality bylaw to retain the operative rules in the former Regional Plan that would expire once the Unitary Plan came into effect (resolution: RBC/2015/17).
46. Despite these earlier decisions, as part of the bylaw making process under the Local Government Act 2002, the council is required to determine whether a bylaw is the most appropriate way of addressing the perceived problem. The reasons for the staff recommendation are summarised as follows.
  - reinstating the regional rules for indoor domestic fires would help to manage Auckland's air pollution levels, particularly in winter
  - the council has an obligation to maintain air pollution at a safe and acceptable level in accordance with the National Air Quality Standards
  - ensuring that Auckland's air pollution does not exceed the National Air Quality Standards is important for public health reasons
  - a bylaw approach is more timely than a plan change process, and has an efficient enforcement approach.
47. Staff have prepared the statement of proposal in line with these recommendations. The statement of proposal includes a draft Air Quality Bylaw for Indoor Domestic Fires to re-establish the regional rules as outlined in Table 2. If the Committee chooses not to make a bylaw, the statement of proposal would not proceed.

### Policy options for applying regional rules to urban Auckland

48. In the former Regional Plan, the rules:
  - for installing new indoor domestic fires differed between urban and rural areas
  - were generally more restrictive for urban areas due to higher population and housing densities in these locations. These characteristics mean there is a greater risk of increased pollution from indoor domestic fires in urban areas.
49. The Urban Air Quality Management Area used in the former Regional Plan represented Auckland's urban area in 2010, but it is now out of date.



50. Staff have identified three options for defining Auckland's urban area for the purposes of the bylaw ("Auckland Urban Air Quality Area"). This will impact the spatial application of the regional rules in the proposed bylaw, particularly in relation to the rules for new indoor domestic fires. The rules that apply to all indoor domestic fires would continue to apply, regardless of property location.
51. All options would re-establish the regulations for indoor domestic fires that were in the former Regional Plan as described in Table 2 above.
52. The options differ as follows:
- **Option B1: Retain the former Regional Plan definition** – this option would define the Auckland Urban Air Quality Area for the purposes of the bylaw, using the former Regional Plan's definition of urban ("the Urban Air Quality Management Area"). This definition would provide a 2010 snapshot of Auckland's existing and planned urban form (Map 1 and Map 2 in Appendix 2 of the statement of proposal)
  - **Option B2: Use the Auckland Urban and Township Air Sheds definition** – this option would apply the "Auckland Urban Air Shed and the Township Air Shed" boundaries, as gazetted by the Ministry for the Environment in 2005, to the bylaw (Map 1 in Appendix 2 of the statement of proposal)
  - **Option B3: Use the urban zones in the Unitary Plan** – this option would update the definition of Auckland Urban Air Quality Area using the urban zones in the Unitary Plan and in the Auckland Council District Plan: Hauraki Gulf and Islands Section. The definition would also cover the small urban areas in the Unitary Plan Waitakere Foothills and Waitakere Ranges zones, that were previously included in the Urban Air Quality Management Area, in the former Regional Plan (Map 2 in Appendix 2 of the statement of proposal).

### **Analysis of Options B1 to B3**

53. The following section provides further detail about the options proposed, as well as their advantages and disadvantages.

#### *Option B1: Retain the former Regional Plan definition*

54. Under this option, the bylaw would use the former Regional Plan's Urban Air Quality Management Area to define the Auckland Urban Air Quality Area. There would be no change to the geographic application of the regional standards.
55. The former Regional Plan's definition of the Urban Air Quality Management Area was adopted in 2010 and is an outdated snapshot of Auckland's urban form. New urban areas that were not anticipated in 2010 would not be captured by this definition. Areas that were projected for urban development in 2010, that have to date remained rural, would be included in this definition.
56. The table below outlines the advantages and disadvantages of this option.

**Table 5: Analysis of Option B1**

	<b>Analysis</b>
<b>Advantages</b>	<ul style="list-style-type: none"> <li>strictly aligns with the Regulatory and Bylaws Committee resolution to retain the operative rules in the former Regional Plan.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>adopted in 2010, the former Regional Plan's Urban Air Quality Management Area is an outdated snapshot of Auckland's urban form</li> <li>Auckland's urban form has expanded, and therefore there will be discrepancies between the air quality standards that apply to different properties in urban areas</li> <li>the definition would become more outdated as urban form in Auckland continues to expand therefore not responsive to changes in the region.</li> </ul>

*Option B2: Use the Auckland Urban and Township Air Sheds definition*

57. In 2005, The Ministry for the Environment gazetted the Auckland Urban Air Shed and the Township Air Shed ("the Air Sheds"). The Air Sheds are used for air quality monitoring, reporting and consenting purposes.
58. Under this option, the bylaw would use the Air Sheds boundaries to define the Auckland Urban Air Quality Area. Any property outside the Air Sheds would be treated as rural by the draft bylaw.
59. The Air Sheds are generally urban in character, though they do not reflect Auckland's urban development post-2005. Under this option, the areas within the Air Sheds would continue to be regulated.
60. Current urban areas that were not apparent in 2005, and therefore not reflected in the Air Shed boundaries, would not be regulated by the bylaw.
61. The table below outlines the advantages and disadvantages of this option.

**Table 6: Analysis of Option B2**

	<b>Analysis</b>
<b>Advantages</b>	<ul style="list-style-type: none"> <li>as these areas are used to monitor compliance with the 2004 National Standards, it would be desirable to use these areas as the basis for the Auckland Urban Air Quality Area for the proposed bylaw</li> <li>when the Ministry for the Environment updates the gazette of Auckland's Air Sheds, this option could be a good reflection of Auckland's urban form.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>gazetted in 2005, these Air Sheds are an outdated snapshot of Auckland's urban development</li> <li>Auckland's urban form has expanded since 2005, so there are discrepancies between the air quality restrictions that apply to different properties within the urban area</li> <li>the Air Sheds were established for monitoring compliance with the 2004 National Standards, rather than Auckland's regional air quality objectives</li> <li>the definition would become more outdated as urban development in Auckland continues to expand, therefore not responding to changes in the region</li> <li>any changes to air quality areas will need to be gazetted by the Ministry for the Environment, taking it out of council's control.</li> </ul>

*Option B3: Use the urban zones in the Unitary Plan*

62. This option would use the urban zones in the Unitary Plan and the Auckland Council District Plan: Hauraki Gulf Islands, to define the Auckland Urban Air Quality Area. The urban rules under the bylaw would apply to the following zones:
- Unitary Plan residential zones: large lot; rural and coastal; single house, mixed housing suburban zone; mixed housing urban zone and terrace housing and apartment buildings zone
  - Unitary Plan business zones: city centre zone; metropolitan centre zone; town centre zone; local centre zone; neighbourhood centre zone; mixed use zone; general business zone; business park zone; heavy industry zone; light industry zone
  - Urban zones (i.e. residential and business zones) in the Auckland Council District Plan: Hauraki Gulf Islands, as the Unitary Plan zones do not apply to the Hauraki Gulf Islands.
63. A few pockets of urban areas in the Unitary Plan Waitakere Foothills and Waitakere Ranges zones that were previously included in the Urban Air Quality Management Area in the former Regional Plan, would also be included as Urban Air Quality area in the proposed draft bylaw.
64. This would ensure that the urban air quality area in the proposed draft bylaw closely resembles the Urban Air Quality Management Area in the former Regional Plan, as requested by the Regulatory and Bylaws Committee.
65. Open space zones and special purpose areas would be regulated by the air quality regulations of the surrounding zone.
66. Also, this option includes transitional provisions in the proposed draft bylaw for any properties potentially affected by a change from the former Regional Plan. These provisions will apply to properties that are currently seeking a building consent, or have recently received a building consent, for the installation of a new indoor domestic fire.
67. The table below outlines the advantages and disadvantages of this option.

**Table 7: Analysis of Option B3**

Analysis	
<b>Advantages</b>	<ul style="list-style-type: none"> <li>• most accurate reflection of Auckland’s urban form as the Unitary Plan was adopted in 2016 and therefore most closely aligns with the intent of the former Regional Plan to focus on urban air quality</li> <li>• updating the definition to reflect Auckland’s current urban development would create consistency; all properties in Auckland’s urban area would have to meet the same standards when installing a new indoor domestic fire</li> <li>• longevity is assured because as future urban zones become urban zones, it will automatically be included in the Auckland Urban Air Quality Area</li> <li>• the Auckland Urban Air Quality Area will always reflect the most updated urban form in Auckland.</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• on adoption of the proposed bylaw, approximately 5639 extra properties would fall under the urban air quality regulations and would have to meet more restrictive standards for installing a new indoor domestic fire</li> <li>• the council will need to ensure that for any plan changes affecting urban zoning, the consultation process will need to highlight any impacts on air quality regulation.</li> </ul>

### Summary of Options B1 to B3

68. In order to determine the appropriateness of each option against the intent and form of the former Regional Plan, staff assessed the options against the following criteria:
- **Consistency with the former Regional Plan definition of urban** – how closely the option aligns with the Urban Air Quality Management Area boundaries in the former Regional Plan
  - **Alignment with the intent of the rules in the Auckland Council Regional Plan: Air, Land and Water** – how closely it aligns with the intent of the former Regional Plan, particularly for the urban area
  - **Impact on properties** – the number of properties impacted by a change in the definition of urban air quality area
  - **Longevity/future proofing** – how often the definition would need to be updated to reflect actual urban and rural form
  - **Ease of implementation and communication** – how easy it would be to implement the rules for the urban air quality area, including communications to public and property owners.
69. Table 8 compares Options B1 to B3 against the criteria.

**Table 8: Criteria assessment**

Criteria		Option B1 <i>Former Regional Plan</i>	Option B2 <i>Air sheds</i>	Option B3 <i>Unitary Plan</i>
1	<b>Consistency with former Regional Plan definition of urban</b>	✓✓	✘	✓
2	<b>Alignment with intent of former Regional Plan</b>	✓	✘	✓✓
3	<b>Impact on properties</b>	✓	✘	✓
4	<b>Longevity</b>	✘	✘	✓✓
5	<b>Ease of implementation</b>	✓	✓	✓

**Key:**

Rating against criteria	✓✓	✓	✘
	Good rating	Medium rating	Poor rating

70. Option B1 would retain the Urban Air Quality Management Area from the former Regional Plan. However, this is not an accurate reflection of Auckland's current urban form. This option would reduce the effectiveness of the draft bylaw, as some of Auckland's current urban areas would be subject to less restrictive air quality rules than other urban areas.
71. Option B2 provides the most outdated snapshot of Auckland's urban form. It would have similar implications in terms uneven application to urban areas. This option also jeopardises the intent of the proposed bylaw and air quality management in the region.
72. While the Air Sheds can be updated to reflect urban form in Auckland, the Ministry for the Environment will be required to gazette these areas. This limits the ability of Auckland Council to update its urban air quality area, as it needs to.

73. Option B3 seeks to update the definition of urban air quality area to the urban zones in the Unitary Plan and the Auckland Council District Plan: Hauraki and Gulf Islands.
74. This option most closely reflects Auckland's current urban form and aligns most closely with the intent of the former Regional Plan.
75. Also, as areas of Auckland rezone, properties will be subject to the correct urban or air quality standards. This option will also include the pockets of urban areas in the Unitary Plan Waitakere Foothills and Waitakere Ranges zones that were previously defined as Urban Air Quality Management Area in the former Regional Plan.
76. However, this approach will require the council to consult and communicate on the consequences of changes in air quality regulation, as zone changes occur.
77. All the options above retain the regional standards for air quality in the former Regional Plan, but seek to define the urban air quality area in different ways. All options (as with the former Regional Plan) will present difficulties in terms of compliance and enforcement.

### **Recommended approach for defining Auckland Urban Air Quality Area**

78. Staff recommend Option B3 as it:
  - most accurately reflects current urban form in Auckland
  - aligns well with the intent of the former Regional Plan i.e. to regulate the installation of new indoor domestic fires in Auckland's urban environment
  - it would be easy to maintain, and will remain current as zones are updated using the plan change process
  - easy to communicate as information about air quality standards can refer to existing Unitary Plan zones.

## **Consideration**

### **Local board views and implications**

79. Setting air quality standards for the region is a governing body decision.
80. If the statement of proposal is approved by the Governing Body, it will be forwarded to local boards for their views.

### **Māori impact statement**

81. The proposed bylaw seeks to regulate emissions from indoor fires for the protection of Auckland's air quality and protect this valuable resource/taonga from degradation. This is in line with the principle of kaitiakitanga in the Māori Plan.
82. Staff recommend that an Independent Maori Statutory Board member be represented on the hearings panel for the draft bylaw to ensure consistency with the principle of kaitiakitanga as outlined in the Māori Plan.

## **Implementation**

83. As per previous practice, the proposed draft bylaw and the statement of proposal are drafted with the recommended options (i.e. Options A2 and B3). The statement of proposal will not proceed or will be amended to reflect the decisions of the Committee.

84. In accordance with Section 83 of the Local Government Act 2002, the statement of proposal, including the draft bylaw, will undergo public consultation. The council would accept written submissions throughout March 2017.
85. Staff will conduct targeted consultation with the areas affected by changes to the definition of Auckland Urban Air Quality Area.

### **Attachments**

<b>No.</b>	<b>Title</b>	<b>Page</b>
A	Statement of Proposal for draft Air Quality Bylaw for Indoor Domestic Fires	

### **Signatories**

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