

27 March 2017

Memorandum

**To:** Chair and Regulatory Committee Members

**Subject:** Revised public safety and nuisance bylaw review process

**From:** Manager, Social Policy and Bylaws

**Purpose**

1. To provide a revised process and timeline for Public Safety and Nuisance Bylaw review.

**Key Messages**

- The September 2017 deadline for the Public Safety and Nuisance Bylaw review can be met by reducing the scope of the review and increasing resources as follows:
  - Undertake only those research activities that we are sure can be completed within two and a half months (April – mid June 2017)
  - streamline and prioritise the issue identification process
  - reduce scope and quality of engagement with Māori, local boards and hard to reach populations
  - consolidating reporting into a single findings report
  - findings report will not be reported to local boards before presentation to the committee
  - increasing resource by deferring delivery of other projects
- The main impact of the revised timeline will be a reduction in engagement, issue identification and analysis. This impact will be mitigated by prioritisation of key issues, focussed engagement and allocating further staff resources to the review.
- The revised timeline ensures that council will meet statutory requirements.

**Background**

2. On 9 March 2017 the Regulatory Committee (the committee) requested staff to complete the review of the Auckland Council Public Safety and Nuisance Bylaw 2013 (the bylaw) by September 2017. This is three months sooner than the December 2017 date planned by staff.
3. The committee also requested that staff provide this memo to update the committee on the process for achieving the September date as follows:

*“That the Regulatory Committee:*

- a) endorse the Public Safety and Nuisance Bylaw review as contained in the report, with the findings, options and recommendations reported to the September 2017 meeting of the Regulatory Committee.*
- b) request the Manager Social Policy and Bylaw to provide a memo updating the committee on the process for achieving the September 2017 deadline.”*

(Resolution number REG/2017/18)

4. An individual committee member also verbally requested a memo on Māori engagement. A response to this verbal request has been incorporated into this memo.

*Critical success factors to any bylaw review must still be met*

5. Staff will ensure any bylaw review is undertaken in a way that meets council's statutory requirements and organisational strategies, in particular:
  - to determine whether a bylaw has been the most appropriate way to address a perceived problem
  - any implications under the New Zealand Bill of Rights Act 1990
  - to meet our statutory and organisational obligations with Māori
  - to ensure a voice for diverse Auckland communities is considered in decision making
  - to ensure quality policy advice to elected members, including; quality evidence, comprehensive stakeholder engagement, robust analysis, options, and recommendations.

*September deadline to be met by reducing scope and increasing resources*

6. Staff intend to meet the September deadline by:
  - only undertaking research activities that we are sure can be completed within two and a half months (April – mid June 2017)
  - streamline and prioritise issues identification process
  - reducing the scope of engagement
  - consolidating reporting into a single findings report
  - findings report will not be reported to local boards before presenting it to the regulatory committee
  - increasing resource by deferring delivery of other projects
  - proceeding regardless of whether Auckland Transport are able to review their mirror Public Safety and Nuisance bylaw at the same time.
7. An assessment of the changes, risks and their mitigation is contained in Attachment A.
8. The risks of the new process and timeline are reputational:
  - reducing the amount of evidential data available to inform decision making
  - limiting the scope of engagement, particularly with local boards and Māori
  - reducing customer service as a result of delays to other areas of bylaw work.
9. An overview of the revised process timeline is provided in Attachment B.

## Attachment A: Assessment of scope and resource changes to meet September 2017 report date

| Reduce scope of commissioned research and engagement. Scope of research activities will be reduced and no the future modelling undertaken. Engagement with Māori, local boards and organisations representing minority populations and hard to reach groups will be reduced.   |   |   |
|--|---|---|
| Originally proposed approach   | Amended approach  | Risks and Mitigations   |
| <p>To use contracted resources to:</p> <ul style="list-style-type: none"> <li>collect and analyse council complaints data</li> <li>undertake focus group research with key stakeholder groups and harder to reach interest groups</li> <li>undertake public attitudes and perceptions research</li> <li>broad approach to issues identification</li> <li>model scenarios for future growth in public safety and nuisance complaints, and council's capacity to respond.</li> <li>focus on ensuring sufficient time to engage with Māori</li> <li>using existing stakeholders to help identify appropriate representatives from minority and hard to reach groups, with whom staff can engage in subsequent engagement rounds.</li> </ul> | <ul style="list-style-type: none"> <li>only use internal data sources that are immediately extractable from current monitoring systems</li> <li>limit focus group engagement to that which can be undertaken in the time available</li> <li>attitudes and perceptions survey will continue but sample size reduced</li> <li>streamline and prioritise issues identification process</li> <li>future growth modelling will not occur</li> <li>scope and scale of Māori engagement, local board engagement and hard to reach populations will be reduced by the new time constraints –the extent to which engagement with hard to reach groups may be significantly reduced.</li> </ul> | <ul style="list-style-type: none"> <li><i>Risk:</i> Quality of evidence may not meet minimum statutory requirements. <i>Mitigation:</i> the review will be redesigned to ensure sufficient information to meet minimum statutory requirements and the risks of successful legal challenge (if any) are low</li> <li><i>Risk:</i> lower profile issues may be overlooked or not analysed in any depth. <i>Mitigation:</i> staff will structure engagement and analysis to mitigate this risk</li> <li><i>Risk:</i> decreased level of confidence in the engagement process. Engagement viewed as a 'tick box' activity. Views of Māori, Local boards and hard to reach populations may not be well represented: <i>Mitigation:</i> cluster workshops, targeted engagement and the Special Consultative Procedure for bylaw review will provide opportunities for input from all interested parties.</li> </ul> |
| Shortened reporting form. To meet the revised process timeline, staff will provide a consolidated findings report.   |   |   |
| Originally proposed approach   | Amended approach  | Risks and Mitigations   |
| <ul style="list-style-type: none"> <li>three issues papers presented as separate parts to the findings report. Two-step process to provide more detail and feedback loops in relation to begging and car window washing and ensure comprehensive coverage of other issues.</li> </ul>  | <ul style="list-style-type: none"> <li>all analysis will be presented in one findings report.</li> </ul>  | <ul style="list-style-type: none"> <li><i>Risk:</i> evidence and quality of analysis is reduced to the point that council cannot meet its minimum statutory requirements. <i>Mitigation:</i> this risk is low and revised process will provide an adequate coverage of evidence and issues in the finding report</li> </ul>   |

**Do not report findings to local boards.** Under the revised timeframe, there is insufficient time to formally consult with local boards.

| Originally proposed approach  | Amended approach  | Risks and Mitigations  |
|---|---|--|
| <ul style="list-style-type: none"> <li>to report the review findings to local boards prior to reporting to the Regulatory Committee. Enable formal views of local boards on the findings to be considered.</li> </ul> | <ul style="list-style-type: none"> <li>to meet the revised process timeline, staff will instead circulate the findings and Regulatory Committee report on options and decision on next steps to local boards after the Regulatory Committee meeting.</li> </ul> | <ul style="list-style-type: none"> <li><i>Risk:</i> local board members are dissatisfied with being consulted after the findings report. <i>Mitigation:</i> attend local board cluster workshops to get as much feedback from local boards as possible during the review and through review Special Consultative Process.</li> </ul> |

**Increase resource by deferring other projects.** Increasing resource reduces the impact on research and engagement, analysing and reporting findings.

| Originally proposed approach   | Amended approach  | Risks and Mitigations  |
|--|---|--|
| <ul style="list-style-type: none"> <li>the original project timeframe was developed in regard to other projects that the unit is planning to undertake, and staff resources were allocated accordingly.</li> </ul> | <ul style="list-style-type: none"> <li>allocate more staff resources to this project</li> <li>work that may be deferred or have reduced resources to at least the end of July may include bylaw maintenance (signage), input into the Department of Internal Affairs review of bylaw making (including infringement powers), and processing of alcohol ban requests.</li> </ul> | <ul style="list-style-type: none"> <li><i>Risk:</i> reputational risk in delays to other work areas may result in criticism, poor customer service for businesses, organisations and local boards. <i>Mitigation:</i> the delay is short term (approximately 4 months).</li> </ul> |

**Misalignment with the Auckland Transport bylaw review.** Auckland Transport has signalled a willingness to review their bylaw but may be affected by new timeline.

| Originally proposed approach   | Amended approach   | Risks and Mitigations   |
|--|--|---|
| <ul style="list-style-type: none"> <li>the original plan identified the opportunity for Auckland Transport to align a review of their mirror bylaw ( though not confirmed), This is potentially important for car window washing which occurs predominantly on roads, and therefore within AT's jurisdiction.</li> </ul> | <ul style="list-style-type: none"> <li>the revised process timeline will be even more difficult for AT to conduct a thorough bylaw review in tandem with this review.</li> </ul> | <ul style="list-style-type: none"> <li><i>Risk:</i> that Auckland Transport is not able to collaborate sufficiently with Auckland Council under the revised process to the extent that the two bylaws do not align in timing or content. <i>Mitigation:</i> update Auckland Transport regularly and work closely with them where possible.</li> </ul> |

**Attachment B: Comparison of original and revised project timeline for the Public Safety and Nuisance Bylaw review**

|                   |  |
|-------------------|--|
| Original timeline |  |
| Revised timeline  |  |

| <b>Project Phase</b>  | Dec-16 | Jan-17 | Feb-17 | Mar-17 | Apr-17 | May-17 | Jun-17 | Jul-17 | Aug-17 | Sep-17 | Oct-17 | Nov-17 | Dec-17 | Jan-18 | Feb-18 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Problem definition<br>- <i>Developing project scope</i>   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Project set-up<br>- <i>Developing project plan</i>  |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Discovery/profiling<br>- <i>Identification of stakeholder groups</i><br>- <i>Analysis of secondary data/ reports</i>  |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Research and engagement planning<br>- <i>Consultation with Reg. Committee</i><br>- <i>Development of engagement plan</i><br>- <i>Development of call for proposals for research</i> |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Research and engagement<br>- <i>Commission and roll-out of research work</i><br>- <i>Stakeholder engagement</i>   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Drafting of findings report   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Presentation of draft findings report to local boards   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Presentation of findings, options & recommendations to Regulatory Committee   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Circulation of Regulatory Committee report and decision to local boards   |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |