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

Date: Thursday, 8 March 2018  
Time: 9.30am  
Meeting Room: Room 1, Level 26  
Venue: 135 Albert St  
Auckland

Komiti Whakahaere ā-Ture /  
Regulatory Committee  

OPEN AGENDA

MEMBERSHIP

Chairperson  
Cr Linda Cooper, JP

Deputy Chairperson  
Deputy Mayor Bill Cashmore

Members  
Cr Fa’anana Efeso Collins
Cr Richard Hills
Cr Daniel Newman, JP
Cr Dick Quax
Cr Sharon Stewart, QSM
IMSB Chair David Taipari
Cr Wayne Walker
Cr John Watson
IMSB Member Glenn Wilcox

Ex-officio  
Mayor Hon Phil Goff, CNZM, JP

(Quorum 5 members)

Maea Petherick  
Senior Governance Advisor

2 March 2018

Contact Telephone: (09) 890 8156  
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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Terms of Reference

Responsibilities

The committee is responsible for regulatory hearings (required by relevant legislation) on behalf of the council. The committee is responsible for appointing independent commissioners to carry out the council’s functions or delegating the appointment power (as set out in the committee’s policy). The committee is responsible for regulatory policy and bylaws. Where the committee’s powers are recommendatory, the committee or the appointee will provide recommendations to the relevant decision-maker.

The committee’s key responsibilities include:

- decision-making (including through a hearings process) under the Resource Management Act 1991 and related legislation
- hearing and determining objections under the Dog Control Act 1996
- decision-making under the Sale and Supply of Alcohol Act 2012
- hearing and determining matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002 (this cannot be sub-delegated)
- hearing and determining matters arising under bylaws
- receiving recommendations from officers and appointing independent hearings commissioners to a pool of commissioners who will be available to make decisions on matters as directed by the Regulatory Committee
- receiving recommendations from officers and deciding who should make a decision on any particular matter including who should sit as hearings commissioners in any particular hearing
- monitoring the performance of regulatory decision-making
- where decisions are appealed or where the committee decides that the council itself should appeal a decision, directing the conduct of any such appeals
- considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards)
- regulatory fees and charges
- recommend bylaws to Governing Body for consultation and adoption
- 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, including performing the delegations made by the Governing Body to the former Regulatory and Bylaws Committee, under resolution GB/2012/157 in relation to dogs and GB/2014/121 in relation to alcohol.
- engage with local boards on bylaw development and review
- adopting or amending a policy or policies and making any necessary sub-delegations relating to any of the above areas of responsibility to provide guidance and transparency to those involved.

Not all decisions under the Resource Management Act 1991 and other enactments require a hearing to be held and the term “decision-making” is used to encompass a range of decision-making processes including through a hearing. “Decision-making” includes, but is not limited to, decisions in relation to applications for resource consent, plan changes, notices of requirement, objections, existing use right certificates and certificates of compliance and also includes all necessary related decision-making.

In adopting a policy or policies and making any sub-delegations, the committee must ensure that it retains oversight of decision-making under the Resource Management Act 1991 and that it provides for councillors to be involved in decision-making in appropriate circumstances.
For the avoidance of doubt, these delegations confirm the existing delegations (contained in the chief executive’s Delegations Register) to hearings commissioners and staff relating to decision-making under the RMA and other enactments mentioned below but limits those delegations by requiring them to be exercised as directed by the Regulatory Committee. Relevant legislation includes but is not limited to:

All Bylaws
Biosecurity Act 1993
Building Act 2004
Dog Control Act 1996
Fencing of Swimming Pools Act 1987
Gambling Act 2003; Land Transport Act 1998
Health Act 1956
Local Government Act 1974
Local Government Act 2002
Local Government (Auckland Council Act) 2009
Resource Management Act 1991
Sale and Supply of Alcohol Act 2012
Waste Minimisation Act 2008
Maritime Transport Act 1994

Related Regulations

Powers
(i) All powers necessary to perform the committee’s responsibilities.

Except:

(a) powers that the Governing Body cannot delegate or has retained to itself (section 2)
(b) where the committee’s responsibility is limited to making a recommendation only.

(ii) Power to establish subcommittees.
Exclusion of the public – who needs to leave the meeting

Members of the public

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

Those who are not members of the public

General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

Independent Māori Statutory Board

- Members of the Independent Māori Statutory Board who are appointed members of the committee remain.
- Independent Māori Statutory Board members and staff remain if this is necessary in order for them to perform their role.

Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Other staff who need to because of their role may remain.

Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

Council Controlled Organisations

- Representatives of a Council Controlled Organisation can remain only if required to for discussion of a matter relevant to the Council Controlled Organisation.
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1  **Apologies**

Apologies from Cr E Collins and Cr R Hills 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 Committee:

a) confirm the ordinary minutes of its meeting, held on Thursday, 8 February 2018, 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 7.7 provides for Public Input. Applications to speak must be made to the Governance Advisor, in writing, no later than **one (1) clear working day** 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 6.2 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 **one (1) day's 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 6.1 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

There were no notices of motion.
Ara Tūhono Warkworth to Wellsford project - Notice of Requirement, Resource Consents and Environmental Protection Authority Process 2018

File No.: CP2018/01711

Te take mō te pūrongo / Purpose of the report

1. To outline the route protection (designation) and resource consent process for the New Zealand Transport Agency’s Ara Tūhono - Warkworth to Wellsford Project and to recommend a response to a request from the Environmental Protection Authority for the council’s views on the way it should be processed.

Whakarāpopototanga matua / Executive summary

2. The New Zealand Transport Agency (the Agency) is preparing a notice of requirement and resource consent applications (applications) under the Resource Management Act 1991 to protect and construct the second stage of the Ara Tūhono Pūhoi to Wellsford Project that covers the State Highway 1 (SH1) corridor from the Northern Gateway Toll Road at the Johnstone’s Hill tunnel, to Wellsford and Te Hana.

3. NZTA intends to lodge its applications with the Environmental Protection Authority (Authority) in May 2018, and will request the applications are referred to a Board of Inquiry, on the basis that the Warkworth to Wellsford project is a matter of national significance. This would result in a significantly faster processing time.

4. The Authority has written to the council on behalf of the Minister of the Environment, formally seeking the council’s views on:
   i. How the proposal should be processed
   ii. Auckland Council’s capacity to process the application
   iii. Any nominations for Board of Inquiry members, in the event a Board of Inquiry is established

5. For clarity, the request is for the council’s views on the process for considering the Warkworth to Wellsford Project, not the merits or details of the project.

Ngā tūtohunga / Recommendation/s

That the Regulatory Committee:

a) agree that the council’s response to the Environmental Protection Authority in relation to the notice of requirement and applications for resource consent for the Warkworth to Wellsford Projects is to:
   i) agree that the Warkworth to Wellsford Project is a proposal of national significance
   ii) recommend that the Warkworth to Wellsford Project should be referred to a Board of Inquiry
   iii) confirm that Auckland Council has the capacity to process the matter if required.

b) delegate to the Chair and Deputy Chair of the committee and a member of the Independent Māori Statutory Board, working with Manager North West & Islands Planning and the Manager North West Resource Consents, the task of preparing a list of potential Board of Inquiry members with expertise in the areas of planning, ecology, engineering, landscape architecture, and tikanga Māori, should the Minister refer the Warkworth to Wellsford Project to a Board of Inquiry.
Item 9

Horopaki / Context

6. The Warkworth to Wellsford Project is the second stage of the Ara Tūhono Pūhoi to Wellsford Project covering the State Highway 1 (SH1) corridor from the Northern Gateway Toll Road at the Johnstone’s Hill tunnels, to Wellsford and Te Hana. A Board of Inquiry confirmed the Notices of Requirement and granted resource consents for the first stage of the project, from Pūhoi to Warkworth, in September 2014, and this is now under construction.

7. The Project is a proposed four-lane, motorway standard, offline alternative to State Highway 1 in the north of Auckland. The Indicative Route commences at the interface with the Pūhoi to Warkworth Project, near Wyllie Road, and passes to the west of the existing SH1 alignment near The Dome, before crossing SH1 just south of the Hoteo River. North of the Hoteo River the indicative route bypasses Wellsford and Te Hana to the east. The Project ties into SH1 to the north of Te Hana.

8. The Puhoi to Wellsford Project is recognised in the Auckland Plan as a key inter-regional connection, as nationally important and that aims to help revitalise the Northland economy (Auckland Plan Directive 13.8).

9. The New Zealand Transport Agency objectives for the Project are to:
   - Increase long-term corridor capacity, improve route quality and safety, improve freight movement and provide resilience in the wider State Highway network;
   - Improve travel time reliability and decrease travel times between Warkworth to Wellsford and Northland;
   - Alleviate congestion at Warkworth and Wellsford by providing for through traffic.

10. The Agency wishes to secure a designation of land to enable the future construction of the Project. The timing for construction is not confirmed but assessments being undertaken in support of the applications assume a construction start date around 2030.

11. The Agency has consulted on an indicative route and a plan of this is included in Attachment A.

Approval Process

12. The Agency intends to protect and construct the corridor through both the designation and resource consent processes in the Resource Management Act 1991. To do this, the Agency plans to lodge a Notice of Requirement and resource consent applications that identify the corridor in detail and will include an Assessment of Effects on the Environment.

13. The Agency plans to use Part 6AA ‘Proposals of National Significance’ of the Resource Management Act 1991 to have these matters processed by the Authority rather than the Council. This would result in a significantly faster processing time for the Notice of Requirement and associated resource consent applications as it effectively combines the Council and Environment Court hearing processes.

14. The alternative process would be for the Council to notify and process the Notice of Requirement and resource consent applications and provide a recommendation (Notice of Requirement) and decision (resource consent) to the Agency. Following the Agency’s decision, any submitter or the Council could appeal the decision on the Notice of Requirement to the Environment Court. Equally, any submitter could appeal any decision on a resource consent application to the same Court.

15. The process that the Agency is seeking to use involves lodging the Notice of Requirement and resource consent applications with the Authority, which would then notify and process them using a Board of Inquiry or directly refer the matter to the Environment Court. The Authority is required by law to release any decisions or recommendations no more than nine months following the date of notification. These decisions could only be appealed to the High Court on points of law.
16. The Council’s role in this process would be as a potential submitter on the Notice of Requirement and the consent resource applications (rather than the processor of it). The Council would also be required to prepare a report on the key issues in relation to the proposal under section 149G(3) of the Resource Management Act 1991.

17. The Agency intends to lodge the Notice of Requirement documents and resource consent applications with the Authority in May 2018.

18. The Environmental Protection Authority wrote to Auckland Council on 20 December 2017 (Attachment B) regarding the Ara Tūhono Warkworth to Wellsford Project. The letter explains the Authority’s requirement to make a recommendation to the Minister for the Environment and the Minister’s requirement to have regard to the council’s views. Accordingly, the Authority seeks the council’s views on:

- How the proposal should be processed
- Auckland Council’s capacity to process the application
- Any nominations for Board of Inquiry members, in the event a Board of Inquiry is established.

Tātaritanga me ngā tohutohu / Analysis and advice

19. To answer the Environmental Protection Authority’s question on how the proposal should be processed, it is necessary to first determine whether the proposal is of national significance (and therefore whether a Board of Inquiry or direct referral to the Environment Court are options). If the project is considered to be of national significance then the three options to process it (Council, Board of Inquiry or Environment Court) can be evaluated.

Is the Warkworth to Wellsford Project a proposal of national significance?

20. The project is the second part of the Ara Tūhono - Pūhoi to Wellsford Project. To assess whether the project is of national significance, Section 142(3) of the Resource Management Act 1991 is a useful guide as it sets out the criteria for the Minister to consider. The criteria are listed below with an assessment of the proposal against each one.

21. **Whether the matter has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment).**

22. The Agency has engaged, and is continuing the engage with key stakeholders, iwi and the wider community on the Project. Based on the strong interest to date, and the level of interest received on the Puhoi to Warkworth Project, it is anticipated that the Project will arouse widespread public interest regarding its actual or likely effect on the environment. Particular areas of interest are likely to include private property impacts, the interchange locations, the tunnel, and the environmental and amenity effects during construction and operation.

23. **Whether the matter involves or is likely to involve significant use of natural and physical resources.**

24. The Project will be a significant piece of new infrastructure, extending over a distance of approximately 26 kilometers. It will pass through areas of pine forestry, rural and rural-residential land. The project may incorporate several large viaducts and bridges, and potentially a tunnel. Extensive earthworks will be required during a construction period of approximately five years. The construction works may involve area of indigenous vegetation clearance and the alignment will cross, divert and/or culvert a number of permanent and intermittent watercourses. Accordingly, it is considered that the project will involve significant use of natural and physical resources.

25. **Whether the matter affects or is likely to affect a structure, feature, place or area of national significance.**
26. The indicative route of the project appears unlikely to affect any structure, features, places or areas of national significance. The receiving environment is predominantly rural, rural residential and pine forestry land uses. The indicative route does traverse the Dome Valley which is an area of environmental values (being a habitat for Hochstetter’s frogs and Powelliphanta snails).

27. **Whether the matter affects or is likely to affect or is relevant to New Zealand’s international obligations to the global environment.**

28. The Project is not likely to directly affect New Zealand’s international obligations to the global environment. However, New Zealand’s obligations under the Framework Convention on Climate Change may be a relevant factor.

29. **Whether the matter results or is likely to result in or contribute to significant or irreversible changes to the environment.**

30. The construction of 26 kilometers of permanent transport infrastructure will contribute to an irreversible change to the receiving rural, rural-residential and forestry environments.

31. **Whether the matter will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions.**

32. The Project will provide an alternative route to the existing SH1 between Warkworth and north of Te Hana. This will provide for greater security and resilience of the State Highway network in the event of traffic incidents or natural hazards. The project will also reduce congestion and travel times between Warkworth and Te Hana, removing deterrents to travel and improving accessibility between Auckland, Wellsford and the Northland region. By reducing the cost of travel the project will facilitate regional growth and access to key markets in the Auckland and Northland regions.

33. The provision of a motorway-standard alternative route to State Highway 1 through the Dome Valley will significantly reduce the likelihood and severity of crashes in this well-known traffic blackspot. Accordingly, it is considered that the project will assist the Crown in fulfilling its public health, welfare, security, and safety obligations and functions.

34. **Whether the matter involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment.**

35. The construction of the Project is likely to involve best practice technology, processes and methods. These are unlikely to contribute to any significant adverse effects on the environment, and in fact would be more likely to be used to minimise the effects on the environment from the construction.

36. **Whether the matter is or is likely to be significant in terms of Section 8.**

37. Section 8 of the Resource Management Act 1991 refers to taking into account the principles of the Treaty of Waitangi. Engagement with relevant mana whenua groups is ongoing, as discussed in the Māori Impact Statement in this report.

38. **Whether the matter will affect or is likely to affect more than one region or district**

39. Although the physical extent of the Project is within the Auckland region, a key benefit of the project is improving transport accessibility between Northland and Auckland. By reducing the cost of travel, the project will facilitate regional growth and access to key markets in the Auckland and Northland regions. Accordingly, it is considered that the project will affect more than one region or district.

40. **Whether the matter relates to a network utility operation that extends or is proposed to extend to more than one district or region.**

41. State Highway 1 and the new section of the State Highway to be created by the Project is part of a network utility operation that extends to more than one district or region.
Summary

42. Overall, based on the analysis above, it is considered that the Warkworth to Wellsford Project is of national significance. This is reinforced through the inclusion of the road in the Government’s National Infrastructure plan as a Road of National Significance.

43. **Should the Warkworth to Wellsford Project be referred to a Board of Inquiry, the Environment Court or the Auckland Council?**

44. Having established the project is a matter of national significance there are three different options for processing the proposal. The options are a Council Hearing, Environment Court Hearing or a Board of Inquiry. Each option has different advantages and disadvantages. The Council’s hearing process would potentially be a more comfortable environment for submitters than a formal Environment Court hearing / cross examination process. A Board of Inquiry would likely sit somewhere in between these two processes in terms of formality and ease of access for the public.

45. The timeframe for the Council process would be longer as any decision could be appealed to the Environment Court. The Board of Inquiry and Environment Court processes would only have appeal rights to the High Court on points of law.

46. Overall, it is considered that the Board of Inquiry is the most suitable option for processing this proposal as it strikes a balance between the most efficient method to process the proposal (of national significance) while still enabling the general public to feel comfortable participating in the process.

**Does Auckland council have capacity to process the matter?**

47. Auckland Council is the largest local authority in New Zealand. Processing complex projects involving notices of requirement and multiple resource consent applications is within the capacity of the Council.

**Suggestions for potential Board of Inquiry members**

48. Any list of potential Board of Inquiry members should include candidates that have significant experience and expertise in one or more of the following areas:

- Resource management planning
- Ecology
- Engineering
- Landscape architecture
- Tikanga Māori

49. It is recommended that the Chair and Deputy Chair of this committee and a representative from the Independent Māori Statutory Board be delegated to compile a list of names as potential Board of Inquiry members and forward this list onto the Environmental Protection Authority as part of a response letter. The Manager North West and Islands Planning and the Manager North West Resource Consents would be able to support them in this task.

**Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views**

50. The Rodney Local Board was briefed on the Environmental Protection Authority’s letter at its Transport, Infrastructure and Environment Committee workshop on 22 February 2018. The Rodney Local Board is supportive of the Warkworth to Wellsford project and wants to see the designation and consents processed quickly. The local board would prefer a Board of Inquiry method is used for this project. This is because it would allow a streamlined process while still enabling local residents to attend a hearing at a local facility and in a less formal setting than the Environment Court. The local board did not have any suggestions for members of a Board of Inquiry.
51. The Agency is continuing to work with Hōkai Nuku on the Project. Hōkai Nuku is a collective formed in 2010 by mana whenua within the Pūhoi to Wellsford project area, and includes Ngāti Manuhiri, Ngāti Wai, Ngāti Mauku/Ngāti Kauwae (Te Uri o Hau), Ngāti Rango (Ngāti Whātua o Kaipara) and Ngāti Whātua.

52. Hōkai Nuku is actively involved in the current construction phase of the Puhoi to Warkworth project and is also actively involved in discussions on Warkworth to Wellsford. This has included various technical discussions and participation in site visits and field investigations. The Agency states that it’s understanding is that Hōkai Nuku is fully in support of the project.

53. In mid-2017, the Agency also asked other iwi with potential interests in the Rodney Local Board area whether they wished to be involved in the Project. Ngāti Maru, Te Kawerau a Maki and Ngāti Paoa all expressed an interest in the Project area. The Agency has met with representatives of those iwi and invited them to prepare Cultural Values Assessments. To date, no significant concerns have been raised about the Project.

54. Should the council process the proposal then the council can charge its processing time to the requiring authority (New Zealand Transport Agency). Should the matter be processed via a Board of Inquiry or the Environment Court then the council may choose to submit on the proposal. Any submission and expert evidence at a hearing will be at the cost of the Council.

55. The risks in responding to the Environmental Protection Authority’s letter are low. It should be noted that the council’s response is not a decision but simply a council view that is expressed to the Minister for the Environment. The Minister can make a decision as he sees fit.

56. Council staff will respond by letter to the Environmental Protection Authority with the recommendations of this committee.

**Ngā kaihaina / Signatories**

<table>
<thead>
<tr>
<th>Author</th>
<th>Ryan Bradley - Planner</th>
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<tbody>
<tr>
<td>Authorisers</td>
<td>John Duguid - General Manager - Plans and Places</td>
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<tr>
<td></td>
<td>Penny Pirrit - Director Regulatory Services</td>
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</table>
A number of route options have been considered during the project to date. A number of route options were investigated to help identify the indicative route.

**The Indicative Route**
- Removes regional heavy traffic from the town centres of Wellsford and Te Hana
- Has the least impact on the environment
- Avoids impacts on areas of known cultural significance
- Provides greater route resilience to natural events
20 December 2017

Stephen Town
Chief Executive Officer
Auckland Council
Private Bag 92 300
Auckland 1141

Dear Mr Town

New Zealand Transport Agency: Ara Tūhono – Warkworth to Wellsford Proposal processing and board of inquiry nomination request

The New Zealand Transport Agency has formally indicated that it intends to lodge its Ara Tūhono – Warkworth to Wellsford potentially nationally significant proposal with the Environmental Protection Authority (EPA) in May 2018.

The proposal is likely to consist of a Notice of Requirement and applications for resource consents. We have had initial discussions with Auckland Council staff, including Peter Varl and Laura Laureson about the proposal and with regard to engaging Council staff to provide technical services during pre-lodgement.

Upon lodgement of the application, we are required to make a recommendation (within 20 working days) to the Minister for the Environment that he direct the proposal to be processed by a board of inquiry, the Environment Court, or referred back to the local authority (Auckland Council) for processing.

Views of Auckland Council on how the proposal should be processed and capacity

In making his decision the Minister must, under s147(4)(a) and (b) of the Resource Management Act 1991 (RMA), have regard to the views of the local authority. Accordingly, on behalf of the Minister, we seek the views of Auckland Council on how the proposal should be processed and on your capacity to process the proposal. Our practice is to seek the local authority’s views prior to the proposal being formally lodged with the EPA, so that we can give the Minister a complete recommendation package upon which to make his decision.

Views of Auckland Council on suggestions for members of a board of inquiry

As part of the recommendation we send to the Minister, we would also like to include your suggestions for possible board members, should the Minister choose to direct the proposal to a board of inquiry. Accordingly, this letter formally seeks the views of Auckland Council on suggestions for members of the board, under s149K(2) of the RMA.

A board of inquiry is a special purpose body established to consider the applications, hear evidence, and make a final decision on whether or not the applications will be approved. In appointing the board, the Minister must consider the need for the board to have available to it, from its members:
· knowledge, skills, and experience relating to the RMA, tikanga Māori, the local community, the subject matter of the proposal and the exercise of control over the manner of examining and cross-examining witnesses; and

· legal expertise; and

· technical expertise in relation to the matter or type of matter that the board will be considering.

In making our recommendation to the Minister, the EPA may also highlight suggested board members who have been accredited through the Ministry for the Environment's "Making Good Decisions" programme.

Previously only a current, former or retired Environment Court Judge, or a retired High Court Judge, could be appointed as chair of a board of inquiry for a nationally significant proposal under the RMA. As part of the Resource Legislation Amendments Act that came into effect on 19 April 2017, the appointment of a judge as the chair of a board of inquiry is now optional. This allows other candidates to be appointed as chair if appropriate.

The chairperson's role carries more responsibility than the other members. Decision-making will be by consensus as far as possible. All board members shall have a deliberative vote, and where there is no clear majority, the chairperson shall have the casting vote. The chairperson will be the spokesperson for the board, unless the chairperson or the board delegates that responsibility in any instance. Therefore, please can council also advise the EPA if any of your suggestions for members of the board would be considered suitably qualified and experienced to act as chair of a board of inquiry.

If you would like to nominate candidates, please provide the names, and if available the contact details and curriculum vitae of suggested board members to the EPA. We will then contact any suitable suggested board members to discuss the board of inquiry process.

Next steps

It would be appreciated if we could have a response to this letter by Thursday 29 March 2018. If you require additional time then please advise the EPA.

If you require any clarification or have any questions please contact Stephanie Frame, Manager – National Significant Proposals on 04 474 5534 or email Stephanie.frame@epa.govt.nz.

Yours sincerely

Siobhan Quayle
General Manager
Climate, Land & Oceans

CC: Peter Varl, Team Leader, Area Planning, North West & Islands [Peter.Varl@aucklandcouncil.govt.nz]
CC: Laura Laurenson, Acting Team Leader, Major Infrastructure Projects, Resource Consents [Laura.Laurenson@aucklandcouncil.govt.nz]
Revocation of a resolution endorsing the construction of a stormwater channel through 1 Takanini School Road

File No.: CP2018/02258

Te take mō te pūrongo / Purpose of the report
1. To revoke a resolution made by the Regulatory Committee on 6 July 2017, which endorsed the construction of a stormwater channel through 1 Takanini School Road.

Whakarāpopototanga matua / Executive summary
2. On 6 July 2017 the Regulatory Committee considered an objection by the Sabatier Trust to construct a stormwater overland flow path channel through 1 Takanini School Road.
3. The committee endorsed construction of the stormwater channel to enable a housing development by Addison Developments (resolution number REG/2017/68). This resolution was appealed to the District Court by the Sabatier Trust.
4. In the meantime, Addison Developments has pursued a different drainage solution to avoid delay to its housing development project and has formally withdrawn its section 460 application.
5. Despite the withdrawal, and assurances that no construction will take place on its land, Sabatier Trust seeks to proceed with its appeal of the resolution.
6. In response to this, the Regulatory Committee has two options. These are:
   - option one: status quo, to leave the resolution standing
   - option two: to revoke the resolution (the preferred option).
7. If the resolution stands, as per option one, Auckland Council will need to participate in an unnecessary court hearing arguing in support of the committee’s decision.
8. This will create costs for the council and financial and reputational risks if the court finds against us, including potential liability for the appellant (Sabatier Trust’s) legal costs.
9. It is therefore recommended that the Regulatory Committee choose option two and revoke its previous resolution.
10. This will formalise the withdrawal of Addison’s application, meaning that the council can avoid the costs and risks of an unnecessary court hearing.

Ngā tūtohunga / Recommendation
That the Regulatory Committee:

a) revoke the following decision carried at the 6 July 2017 meeting of the Regulatory Committee:

   Resolution number REG/2017/68:

   That the Regulatory Committee:

b) endorse the construction of an overland flow path channel through Lot 2 DP 157092 at 1 Takanini School Road, Takanini as the only practical route, being the lowest point in the catchment, pursuant to section 460 of the Local Government Act 1974 and as referenced on approved plans under EPA – 2016 - 642 - Stg 6C dated 15th February 2017.
Horopaki / Context

11. On 6 July 2017 the Regulatory Committee approved the following resolution:

Resolution number REG/2017/68

That the Regulatory Committee:

a) determine the objection by the owners of 1 Takanini School Road, Takanini pursuant to section 460 and Schedule 12 of the Local Government Act 1974,

b) endorse the construction of an overland flow path channel through Lot 2 DP 157092 at 1 Takanini School Road, Takanini as the only practical route, being the lowest point in the catchment, pursuant to section 460 of the Local Government Act 1974 and as referenced on approved plans under EPA – 2016 - 642 - Stg 6C dated 15th February 2017.

12. The resolution followed an application by Addison Developments to construct an overland flow path channel for drainage purposes across Sabatier Trust land under section 460 of the Local Government Act 1974. This was to enable a development which would provide approximately 600 new houses.

13. Sabatier Trust appealed the resolution to the District Court. As a result, Addison Developments was unable to proceed with the construction of the stormwater channel, and its housing development was stalled.

14. Addison has formally withdrawn its Section 460 application and is proceeding with an alternative stormwater drainage solution to be constructed entirely on its own land. Engineering plan approval has been issued by Auckland Council for this alternative stormwater solution, in the council’s role as future owner of this public infrastructure.

15. This means construction of the overland flow path channel is no longer sought by the applicant, Addison Development. However, despite this Sabatier Trust is still seeking to proceed with its appeal to the District Court.

16. On 26 February 2018, the District Court directed that the appeal proceedings be stayed pending the outcome of the council’s consideration of this item at the 8 March 2018 Regulatory Committee meeting. Attachment A to this report describes the District Court proceedings.

Tātaritanga me ngā tohutohu / Analysis and advice

Options Analysis

17. In considering this situation, the Regulatory Committee has two options.

- Option One: Status quo, or to leave the resolution standing
- Option Two: To revoke the resolution.

Option One

18. If the committee selects option one: the status quo, then the resolution will still stand, even though the underlying application has been withdrawn, because it has not been formally revoked.

19. Despite the withdrawal of the application that led to the resolution, and assurances that no construction will take place on its land, Sabatier Trust has stated a preference for the appeal to be heard regardless.

20. While Auckland Council’s position is that there is no longer any matter to appeal, the council may still be required to attend a half day appeal hearing to defend the decision.
21. This would require the drafting of legal submissions and other preparatory work for a preliminary hearing on whether there is a right of appeal against a decision of the council on a Section 460 application. Around eight hours of legal time and cost would be incurred at the expense of the ratepayer. If the preliminary hearing determines that there is a right of appeal, there would be a further hearing on the merits of the decision and additional legal costs and staff resources preparing evidence.

22. There is also a possibility that the District Court may make an adverse decision against the council, resulting in criticism of our processes and potential liability for the appellants (the Sabatier Trust’s) costs.

Option Two

23. If the committee selects option two, revoking the resolution, then there will no longer be any decision to appeal, and the District Court will not hear it.

24. The District Court Judge has provided guidance (see Attachment A) that if the Regulatory Committee withdraws its resolution then the court hearing will not proceed.

25. This means the council will avoid unnecessary staff time and costs. There is also no risk of an adverse decision against the council.

Preferred option and reasons

26. For these reasons the preferred option is option two, that the Regulatory Committee formally revoke their previous resolution. This will remove any risk that the council be made to participate in an unnecessary court proceeding.

27. As explained above, revoking the resolution will not have any impact on delivery of the housing development because Addison Development have identified an alternative way to achieve stormwater drainage at their site.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views

28. The Papakura Local Board has not been consulted on the specific decisions recommended in this report, because revoking the resolution will not result in any changes to the planned development in their area.

29. However, the Papakura Local Board Plan notes that a key initiative for the board is to ‘implement initiatives to improve water quality in our streams and Manukau Harbour.’ Effective stormwater management is key to achieving better water quality and the board has previously expressed support for major stormwater projects in the area, such as the Artillery Tunnel.

Tauākī whakaaweawe Māori / Māori impact statement

30. Under Section 460 of the Local Government Act 1974, iwi are not considered a relevant affected party unless they are landowners through which a proposed drain is to be constructed, or where known sites and places of significance to mana whenua are potentially affected by the works. In this case, there are no known sites and places of significance to mana whenua present on the site. Because of this consultation with mana whenua was not undertaken on the initial decision by the committee to endorse a stormwater channel over privately owned land at 1 Takanini School Road.

31. No consultation has been undertaken with mana whenua on the contents of this report, as the recommended decision, to revoke the resolution, will not give rise to any physical works or impact on the land or waterways.
Ngā ritenga ā-pūtea / Financial implications

32. There are no financial implications of the preferred option two: revoking the resolution.

33. As outlined above, there are potential financial implications if the Regulatory Committee chooses option one (status quo) and the council continues with the appeal proceedings. These include costs of staff time and the potential risk of the council having to cover the appellant’s costs.

Ngā raru tūpono / Risks

34. If the Regulatory Committee selects option one: the status quo and does not revoke the resolution, then as noted above, the council may be required to participate in a court proceeding. This creates a risk of the council incurring unnecessary legal costs.

35. There is also a reputational risk that the council may have an adverse decision against it in the District Court, and its processes criticised. This also creates a financial risk that the council may be found liable for Sabatier Trusts (the appellant’s) legal costs.

36. In contrast, the preferred option two, revoking the resolution, does not create any significant risks. There is a minor reputational risk that the Regulatory Committee will be perceived to be acting in a way that is inconsistent with their previous stance.

37. This risk is mitigated by the changing circumstances related to the project – specifically, that Addison Developments has formally withdrawn the application leading to the initial resolution.

Ngā koringa ā-muri / Next steps

38. If the committee approves revoking the resolution, then the council’s Legal Services team will inform the District Court Judge and Sabatier Trust of this decision. The application will be deemed formally withdrawn and no further action will be required by the council.

Ngā tāpirihanga / Attachments

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<td>Guidance from District Court Judge - email received 26 February 2018</td>
<td>25</td>
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Ngā kaihaina / Signatories

Authors
Alex Cumming – Senior Solicitor
Mark Iszard – Healthy Waters Strategy and Resilience Manager

Authorisers
Barry Potter - Director Infrastructure and Environmental Services
Penny Pirrit - Director Regulatory Services
Email received by Auckland Council’s Legal Services – Regulatory and Litigation on 26 February 2018:

Memoranda have been considered by Judge G Harrison in chambers and the Judge has made the following directions:

1 – Assuming without deciding, that there is a right of Appeal, any Appeal would be futile because the applicant has withdrawn the application and a recommendation has been made to the Council Committee to revoke the resolution the subject of the Appeal.

2 – The relief sought by the Appeal is that the decision (resolution) be set aside. It appears that will occur at the meeting of 8/3/2018.

3 – “The court will not make orders that have no utility” Te Whakaitenga o Waikato Inc v Martin [2016] NZCA 5484

The Appeal is accordingly stayed pending advice from Counsel for the Respondent of the outcome of the meeting of 8/3/2018 - DCJ G Harrison 26/2/2018.
Te take mō te pūrongo / Purpose of the report

1. To approve the outcome of the statutory review and the direction of any changes to six issues within the Auckland Council Public Safety and Nuisance Bylaw 2013 (Bylaw).

Whakarāpopototanga matua / Executive summary

2. To enable the Regulatory Committee to decide on the statutory review and direct changes to the Bylaw, staff have assessed the Bylaw using Local Government Act 2002 criteria.

3. Staff will report on the 49 issues in the Bylaw at consecutive Regulatory Committee meetings from March to June 2018. This report provides an assessment of six of these issues.

4. Staff recommend that the Regulatory Committee approve the outcome of the statutory review and request staff amend the Bylaw to:
   - revoke street naming, building and property numbers, car window washing, and safety or lifesaving equipment clauses
   - amend fireworks and storing or packing goods clauses.

5. Taking this approach will remove bylaw clauses for issues that are better addressed in existing legislation and ensure remaining bylaw clauses more effectively and efficiently address the issues now and in the future.

6. There is a risk that this will result in conflict between the Auckland Council and Auckland Transport public safety and nuisance bylaws. Auckland Transport has not yet commenced a review of its public safety and nuisance bylaw.

7. Of the six issues in this report, the recommendation to amend the bylaw about storing and packing goods may create public confusion. Staff will continue to engage with Auckland Transport to mitigate this risk either through appropriate public communication or when Auckland Transport review its bylaw.

8. If approved, staff will use the decisions from this and subsequent reports to prepare a statement of proposal for approval of the Regulatory Committee. Public notification will follow, before a final decision is made by the Governing Body.

Ngā tūtohunga / Recommendation/s

That the Regulatory Committee:

As required by section 160(1) of the Local Government Act 2002

a) determine that a bylaw is not the most appropriate way to address the following issues:
   i) street naming (clause 10(1)-(3))
   ii) building and property numbers (clause 10(4)-(6))
   iii) car window washing (clause 6(1)(g))
   iv) fireworks in other places (clause 6(3)(b))
   v) safety or lifesaving equipment (clause 9(5)(q)).
b) determine that a bylaw is the most appropriate way to address the following matters:
   i) fireworks in public places (clause 6(3)(a))
   ii) storing or packing goods (clause 8(1)(e)).

c) determine that the Auckland Council Public Safety and Nuisance Bylaw 2013 does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990.

d) determine that the Auckland Council Public Safety and Nuisance Bylaw 2013 is not the most appropriate form of bylaw.

As provided for in section 160(3) of the Local Government Act 2002

e) request a statement of proposal that amends the Auckland Council Public Safety and Nuisance Bylaw 2013 as detailed in Attachment A that:
   i) repeals bylaw clauses about issues in (a)
   ii) amends bylaw clauses about issues in (b).

f) amend the general form of the bylaw as detailed in this report.

Horopaki / Context

The Local Government Act 2002 states the requirements for a statutory bylaw review

9. A statutory review of the Auckland Council Public Safety and Nuisance Bylaw 2013, Te Ture ā-Rohe Marutau ā-Iwi me te Whakapōrea rearea 2013 (the Bylaw) must be completed by 22 August 2018 (section 158 Local Government Act 2002).

10. To complete the statutory review council must decide whether the Bylaw (section 160(1) Local Government Act 2002, Attachment B):
   • is the most appropriate way of addressing the issues contained in the Bylaw
   • is the most appropriate form of bylaw
   • gives rise to implications under the New Zealand Bill of Rights Act 1990.

The Local Government Act 2002 also states the steps after completing a statutory review

11. Following the outcome of the statutory review, council can propose that the Bylaw be confirmed, amended, revoked, or replaced (Attachment B contains legislative requirements).

Staff will report on the outcome of the statutory review and direction for any changes in parts

12. Staff will report on issues in the Bylaw at consecutive Regulatory Committee meetings from March to June 2018. Attachment C identifies which issues will be addressed in each of these reports. This supports decision making on a complex bylaw that contains 49 issues.

13. Each report will contain analysis and advice on both the statutory review and direction for any changes.
Tātaritanga me ngā tohutohu / Analysis and advice

14. This report contains an assessment of the following six Bylaw issues using criteria contained in the Local Government Act 2002.

1. street naming
2. building and property numbers
3. car window washing
4. fireworks
5. safety or lifesaving equipment
6. storing or packing goods.

Staff recommend the Bylaw is amended to revoke four, and amend two issues

15. Table 1 below presents the outcome of the statutory review and direction for any changes. The full assessment is contained in Attachment A.

Table 1: Summary of statutory review and direction for any changes contained in Attachment A

<table>
<thead>
<tr>
<th>Bylaw issue</th>
<th>Recommended outcome of statutory review</th>
<th>Recommended direction for any changes</th>
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<tbody>
<tr>
<td></td>
<td>bylaw appropriate to address issue?</td>
<td>Bylaw form appropriate?</td>
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<tr>
<td>Street naming</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td>Clause 10(1)(2)(3)</td>
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<td></td>
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<tr>
<td>building and property numbers</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td>Clause 10(4)(5)(6)(7)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Car window washing</td>
<td>×</td>
<td>×</td>
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<tr>
<td>Clause 6(1)(g)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fireworks in public places</td>
<td>✓</td>
<td>×</td>
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<tr>
<td>Clause 6(3)(a)</td>
<td></td>
<td></td>
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<tr>
<td>Fireworks in other places</td>
<td>✓</td>
<td>×</td>
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<tr>
<td>Clause 6(3)(b)</td>
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<tr>
<td>Safety or lifesaving equipment</td>
<td>×</td>
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<tr>
<td>Clause 9(5)(q)</td>
<td></td>
<td></td>
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<tr>
<td>Storing or packing goods</td>
<td>✓</td>
<td>×</td>
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<tr>
<td>Clause 8(1)(e)</td>
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Staff recommend improvements to the general bylaw form

16. Through the statutory review process, opportunities were identified to improve the general form of the Bylaw by:

- drafting changes to the Bylaw to be easier to read while still complying with the Auckland Council Bylaw Standard (resolution RB/2012/9). This could include simplifying language, better use of explanatory notes, use of visuals and hyperlinks
- drafting bylaw clauses in a way that the issuing of infringement notices could apply (where appropriate), if government makes future changes to legislation or regulations to enable this.

17. Staff will identify any further opportunities to improve the general bylaw form in subsequent reports to the Regulatory Committee between April and June 2018.
Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe /
Local impacts and local board views

Local boards are especially concerned about car window washing

18. Local boards were engaged in cluster workshops in March 2017. Local board members consider that all issues in the Bylaw remain a concern to varying degrees. However, nuisance, safety and behaviour issues (particularly intimidating car window washing) were of greatest concern.

19. Local boards were also invited to participate in the Regulatory Committee Workshop on 8 February 2018 which focused on the six issues in this report.

Tauākī whakaaweawe Māori / Māori impact statement

Engagement provides a comprehensive picture of Māori perspectives

20. Staff used culturally appropriate, collaborative engagement to identify the impact of public safety and nuisance behaviours on Māori.

21. Five hui were held with whānau, rangatahi and community from:
   - Te Kaha o te Rangatahi Trust
   - Te Kura Kaupapa Māori o ngā Maungarongo
   - Kootuitui Whānau, Papakura
   - Ngāti Whātua Ōrākei whānau
   - Ranui Action Project.

22. Rangatahi Māori also shared views on car window washing through UPsouth.

23. Māori expressed the following key views:
   - high tolerance for those who engage in car window washing activity based on empathy and understanding of the underlying poverty and hardship of participants
   - importance of child safety and a child-safe environment
   - need to protect and enhance the environment
   - need for greater respect for Māori land and Tikanga Māori by authorities and the public.

Car window washing and environmental controls impact Māori more than others

24. Regulation of car window washing under the bylaw is likely to have a greater impact on Māori given the higher proportion of Māori engaged in these activities.

25. Environmental controls for areas such as parks and beaches are also significant because of the role of Māori as kaitiaki (guardians).

26. Staff analysis and advice in Attachment A includes a Māori impact criterion.

Ngā ritenga ā-pūtea / Financial implications

27. The cost of the bylaw review and implementation will be met within existing budgets.
Ngā raru tūpono / Risks

Alignment of the Auckland Transport Bylaw is the main risk

28. Auckland Transport has a similar public safety and nuisance bylaw to the current Auckland Council bylaw for issues that occur on the Auckland transport system to ensure consistency. However, Auckland Transport has not yet commenced a statutory review of its bylaw.

29. There is a risk of conflict between the Auckland Council and Auckland Transport public safety and nuisance bylaws. Auckland Transport’s bylaw is similar to Auckland Council’s bylaw for 15 issues that could fall under either authority’s jurisdiction. An assessment the six issues covered in this report against the Auckland Transport bylaw is provided as Attachment D.

30. Of these, the recommendation to amend the bylaw to prohibit the use of public places for storing and packing of goods is the only one that may create public confusion. Unless Auckland Transport also amends its bylaw, the bylaws would have different rules for the same activity in the same places. However, this difference would be justifiable as the clauses are seeking to achieve different outcomes (obstruction versus use of public places).

31. Staff will continue to engage with Auckland Transport to mitigate this risk either through appropriate public communication or when Auckland Transport reviews its bylaw.

Some stakeholders may be concerned that some issues would no longer be regulated

32. Some stakeholders may be concerned that revoking certain bylaw clauses may mean those issues are no longer addressed. This can be mitigated by the use of explanatory notes about how issues are still regulated under other legislation, and by giving an opportunity to provide feedback on any changes during the special consultative procedure.

Ngā koringa ā-muri / Next steps

Decisions will inform the development of a proposal for public consultation

33. Staff will use the decisions from this and subsequent reports to meet the requirements of section 160(3) Local Government Act 2002, including to:
   - prepare a statement of proposal which will include an amended bylaw and compliance approach
   - report to the Regulatory Committee to recommend the Governing Body adopts the statement of proposal for the purposes of public consultation and to appoint a panel to consider public submissions.

Ngā tāpirihanga / Attachments

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<td>D</td>
<td>Assessment of recommended changes against Auckland Transport public safety and nuisance bylaw</td>
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Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Authorisers</th>
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<tbody>
<tr>
<td>Pania Elliot - Principal Policy Analyst</td>
<td>Michael Sinclair - Manager Social Policy and Bylaws</td>
</tr>
<tr>
<td>Penny Pirrit - Director Regulatory Services</td>
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## BYLAW CLAUSE 10: To enable the installation, and prohibit damage or defacing of road name signs.

### STATUTORY OBLIGATIONS/POWERS

- Council (delegated to Local Boards) has the power to name roads under the Local Government Act 1974 (s319(1)(i))
- Auckland Council and Auckland Transport\(^2\) may make a bylaw about road names to address public nuisance, health, safety, offensive behaviour, or use of public places under the Local Government Act 2002 (s145, s146).

### ISSUE IN 2013

- Road names that are unauthorised or damaged affecting the ease of the public, delivery, and emergency services accessing premises. No data available to indicate the size of the problem.

### OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013

- To provide efficient access to locations through display of correct road names and prohibit damage to road names.
- Auckland Council and Auckland Transport bylaws state that Auckland Transport installs road names, and prohibit damage or defacing of road name signs.
- Powers to enforce bylaw include court injunction (s162 LGA), and power to request name and address (s178 LGA).
- Penalties for bylaw breaches include a maximum $20,000 court fine (s242(4) LGA).

### BYLAW IMPLEMENTATION SINCE 2013

- Auckland Transport delegated enforcement of its bylaw to Auckland Council.
- The bylaw is reactively enforced and is a low priority.
- The bylaw has not been used to date. Identifying offenders is difficult. Instead any damage is repaired/replaced.
- Auckland Transport repairs and installs road names on the Auckland Transport System.

### ISSUE IN 2018

- The nature of the problem remains the same as in 2013.
- Instances of unauthorised or damaged road names are low. Council received four complaints in 2015 and five in 2016.
- Ten to 14 per cent of Aucklanders surveyed witnessed issues. Of those 65 to 94 per cent considered it a nuisance.

### OUTCOME SOUGHT IN 2018

- To create a stunning city centre, with well-connected quality towns, villages and neighbourhoods by minimising damage or defacing of road name signage that effects the efficiency of the public, mail delivery, delivery and emergency services to locate premises.

### BYLAW EVALUATION

#### Still a problem requiring a bylaw response?

- ✓ There is still a low frequency problem that regulation can help address.
- ✓ Damage to road names is the responsibility of Auckland Transport as it occurs on the Auckland Transport System.
- ✓ Auckland Council is responsible for any damage to road names in other public places (e.g. parks).
- ✓ The Local Government Act 2002 (s232) already provides an offence to wilfully, maliciously or negligently interfere with any council property. Penalties include a maximum $20,000 court fine (s242(1) LGA).
- ✓ Police can address wilful damage under Summary of Offences Act 1981 which carry a maximum penalty of a three month prison term or a maximum $2,000 court fine (s11).

---

1. Also refer to s46(1)(c) Local Government (Auckland Council) Act 2009
2. Also refer to s46(1)(b) Local Government (Auckland Council) Act 2009
### Bylaw effective / efficient?
- Bylaw is not used. Identifying offenders is difficult. Instead any damage is repaired/replaced.
- Bylaw is not required to authorise Auckland Transport to install road name signage.

### Bylaw clearly written?
- Bylaw contains unnecessary information. Location of wording for damage is hard to follow because it relates to damage (clauses 7) but is contained in clause 10 for road names.

### Public aware of bylaw?
- Likely to be low. There are no known public awareness initiatives.

### Bylaw fit for the future?
- Bylaw is not required to authorise Auckland Transport to install road name signage.
- While it could be used for damage, in practice it is not, and adequate powers already exist in section 232 of the Local Government Act 2002 and Summary of Offences Act 1981 if required.

### Any bill of rights implications?
- The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

#### Section 160(1) Local Government Act 2002 Recommendation:
A bylaw is not the most appropriate way to address damage to road names now or in the future. Council already has the power to allocate road names, and adequate powers to respond to damage already exist in section 232 of the Local Government Act 2002 and Summary of Offences Act 1982.

### OPTIONS

#### Option 1: Status quo - Retain current wording and implementation
- No changes to wording.
- No enforcement.
- Council would continue to repair any damage.

#### Option 2: Revoke the clauses from the bylaw
(RECOMMENDED)
- Revokes bylaw clause which is not used.
- Local Government and Summary of Offences Act used for enforcement of damage to road name signage.
- Council would continue to repair any damage.

#### Effectiveness and efficiency:
- Bylaw not used.
- Enables Council enforcement if the person responsible is identified (has not occurred to date).
- Bylaw not required to authorise Auckland Transport to install road name signage.

#### Effectiveness and efficiency:
- Enables Council enforcement if the person responsible is identified (not occurred to date).
- Removes unnecessary bylaw regulation.

#### Bill of Rights implications:
- Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

#### Bill of Rights implications:
- Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

#### Fit for future:
- Bylaw not used.

#### Fit for future:
- Enables enforcement action if required.

#### Māori impact/risk:
- There are no specific impacts for Māori.

#### Māori impact/risk:
- There are no specific impacts for Māori.

#### Section 160(3) Local Government Act 2002 recommendation:
The Bylaw clause should be revoked (Option 2), and existing legislation used instead. The bylaw is not used, and adequate powers already exist in section 232 of the Local Government Act 2002 and Summary of Offences Act 1981 if required. Taking this approach will remove unnecessary bylaw regulation while still allowing Council to take action against any offenders if they are identified.
BYLAW CLAUSE 10 (3,4,5,7): To require the display and maintenance of building/property numbers allocated by Auckland Council to specified visible standards, and to prohibit their damage, removal or defacement.

STATUTORY OBLIGATIONS/POWERS
- Council has powers to allocate building/property numbers under the Local Government Act 1974 (s319B).3
- Auckland Transport may make a bylaw requiring property owners, managers, and developers to display property/building numbers in a position that is visible to the road under the Land Transport Act 1998 (s22A8(1)(x)).
- Auckland Council may make a bylaw about building/property numbers to address public nuisance and safety under the Local Government Act 2002 (s145).
- If properties/buildings have frontage on to a private road or park requirement for their display falls under Council’s jurisdiction. No examples of this have been found.

ISSUES IN 2013
- Unauthorised or poorly maintained numbers, incorrect numbers or no numbers displayed.
- Low compliance with address Australia/New Zealand Rural and Urban Addressing Standard - AS/NZS 4819:2011 (the Standard) due to differing requirements of seven of eight legacy Councils who had bylaws.
- No data available on the scale and impact of the issue in 2013.

OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013
- To ensure correct display and maintenance of property numbers so that public, delivery and emergency services can efficiently access buildings.
- Auckland Council and Auckland Transport bylaws require the display and maintenance of building/property numbers allocated by Auckland Council to specified visible standards, and to prohibit their damage, removal or defacement.
- Powers to enforce bylaw include power to request name and address (s178 LGA).
- Penalties for bylaw breaches include a maximum $20,000 court fine (s242(4) LGA).
- Penalties for breaches of the Auckland Transport bylaw also include a $1,000 court fine.

BYLAW IMPLEMENTATION SINCE 2013
- Council’s Property Data Team uses bylaw to proactively encourage correct numbering through letters to owners.
- Licensing and Compliance uses bylaw to respond to rare complaints about missing or incorrect numbers.

ISSUES IN 2018
- Incorrect, missing or invisible numbers create:
  - Accessibility/mobility challenges for older people, people with disabilities, youth who are more likely to use public transport and have trouble identifying where to disembark.
  - An issue for the emergency services when trying to reach properties in an emergency. GPS does not always provide correct information, and forces reliance on landmarks or people standing outside premises.
  - Issues for delivery of mail including rates notices, legal documents and voting papers.
- Non-compliance with the Standard and some discrepancy between Council address data and that of NZ Post /electoral role data (in part due to varying address standards used by legacy councils).
- CBD has lower compliance and fewer numbers displayed compare to suburban and rural areas in Auckland.
- 48 per cent of Aucklanders surveyed had seen buildings or houses with no number. Of those, 71 percent found that missing numbers made them feel annoyed, frustrated, or angry.
- Nine per cent of Aucklanders had seen incorrect numbers displayed and 61 per cent of those respondents felt annoyed, frustrated, or angry.
- Low number of complaints: < 5 per year.

OUTCOME SOUGHT IN 2018
- To create a stunning city centre, with well-connected quality, towns, villages and neighbourhoods where public, mail delivery and emergency services can efficiently locate premises.

BYLAW EVALUATION
Is there still a problem requiring a bylaw response
✓ There is still a problem that regulation can help address.

3 Also refer to s46(1)(c) Local Government (Auckland Council) Act 2009
Is the bylaw effective / efficient?
✓ There is still an issue that regulation can address.
✓ Bylaw does enable compliance around the display of building/property numbers because Council is able to easily identify and contact building/property owners.
✓ No feasible regulatory alternatives to a bylaw exist in relation to the display and maintenance of numbers.
✓ Feasible alternatives exist in relation to Police powers under the Summary Offences Act 1981 (s11) to respond to damage and destruction of building/property numbers.
✓ Most numbers relate to the Auckland Transport System and are traffic related, which is an Auckland Transport responsibility.
✓ Potentially, there may be rare instances of buildings/properties that are outside of the Auckland Transport System (e.g. park roads), but none have been identified.

Is the bylaw clearly written?
✗ No. Wording is not structured in a way to assist the reader.

Public awareness of the bylaw?
✗ Likely to be low. There are no known public awareness initiatives.

Bylaw fit for future?
✗ No, not for Auckland Council. The issue is related to the Auckland Transport System which is Auckland Transport responsibility.

Any bill of rights implications?
✓ The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

Section 160 (1) Local Government Act 2002 Recommendation:
A bylaw is not the most appropriate way to address display, maintenance and damage of building/property numbers now or in the future. The issue is traffic related and therefore is the responsibility of Auckland Transport and not Auckland Council.

OPTIONS

**Option 1: Status quo – Retain current wording and implementation**
- No changes to wording.
- Council would continue to enforce display and maintenance of building/property numbers.

**Option 2: Revoke bylaw clause and rely on Auckland Transport bylaw (RECOMMENDED)**
- Bylaw clauses revoked.
- Council would continue to enforce display and maintenance of building/property numbers using the Auckland Transport bylaw under delegation.
- Damage addressed through the Police under the Summary of Offences Act 1981 (s11).

Effectiveness and efficiency:
✗ Bylaw is unnecessary because identifies issues relating to the Auckland Transport System.

Effectiveness and efficiency:
✓ Auckland Transport bylaw enables enforcement for the display and maintenance of building/property numbers.
✓ Removes unnecessary Auckland Council bylaw regulation.
✓ Police is better placed to investigate damage.

Fit for future:
✗ Bylaw is unnecessary because identifies issues relating to the Auckland Transport System.

Fit for future:
✓ Continue to ensure the display and maintenance of building/property numbers.
N/A

Bill of Rights implications:
✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

Māori Impact:
- There are no specific implications for Māori.

Māori Impact:
- There are no specific implications for Māori.

Section 160(3) Local Government Act 2002 recommendation
The Bylaw clause should be revoked (Option 2), and the existing Auckland Transport bylaw and Police legislation used instead. Including this in the Auckland Council bylaw is unnecessary because it relates to the Auckland Transport System which falls within Auckland Transport’s jurisdiction. Adequate powers also exist in section 11 of the Summary of Offences Act 1981 in relation to damage if required.
**BYLAW CLAUSE 6(1)(g) Prohibits intimidation, nuisance and unsafe behaviours around car window washing in public places.**

**STATUTORY OBLIGATIONS/POWERS**
- Council may make a bylaw about car window washing to address public nuisance, public health and safety, offensive behaviour, or use of public places under the Local Government Act 2002 (s145, s146), and to address public health and nuisance under the Health Act 1956 (s64, s65).

**OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013**
- To enable Council to maintain public safety and minimise nuisance in public places from car window washing
- Sought to enable Council to support police activity.
- Auckland Council and Auckland Transport bylaws allowed car window washing provided it was done safely and did not cause nuisance, intimidation or obstruct traffic.
- Powers to enforce bylaw include power to seize equipment (s164 to 168 LGA).
- Penalties for bylaw breaches include a maximum $20,000 court fine (s242(4) LGA).
- Police regarded the bylaw as an additional tool to address the issues of road/traffic safety (for both the car window washers and other users) and perceptions around community safety.

**BYLAW IMPLEMENTATION SINCE 2013**
- Auckland Transport delegated the enforcement of the bylaw to Auckland Council.
- Council worked to support police to address the issue.

**ISSUES IN 2018**
- Car window washing occurs at road intersections and creates nuisance, intimidation and safety issues for road users/window washers. In December 2017 a teenager was hit by a car and died while car window washing.
- 87 per cent of Aucklanders surveyed witnessed the behaviour. Of those, 80 per cent declined to have their windows washed. If car window washer is rude or loud people may be fearful - 42 per cent versus when they are polite 8 per cent.
- 800 complaints received between 2015 (505) and 2016 (314). Officers report no real decline in incidents.
- From 2015 to 2017, 267 charges were laid against 63 people, 36 were fined between $100 and $300 dollars, plus $130 in court costs. Each prosecution cost Council $2500.
- Council intervention largely ineffective with risks to officers’ health and safety.

**OUTCOME SOUGHT IN 2018**
- To minimise nuisance, intimidation and safety issues associated with car window washing.

**BYLAW EVALUATION**

**Still an issue requiring a bylaw response?**
- There is still an issue, but better regulatory alternatives exist:
  - The police can enforce an amendment in August 2017 to the Land Transport (Road User) Rule 2004 that prohibited car window washing on a road unless the vehicle is legally parked. The penalty under the Land Transport (Vehicle User Safety) Amendment Act 2017 is a $150 infringement fine or maximum $1,000 court fine.
  - Where children as young as 12 engage in the activity, Police can address the issue under the Child, Young Persons, and their Families Act (s48).

**Is the bylaw effective / efficient?**
- The activity occurs at intersections rather than other public places covered by the bylaw.
- Bylaw has limited effect - offenders often depart before officers arrive – preventing ability to give warnings.
- Prosecutions are limited due to difficulties in proving nuisance - where successful they are costly, fines often cannot be collected due to the financial circumstances of window washers.
- Enforcement powers are largely limited to seizure of property (i.e. buckets and mops).
There are health and safety risks for Council officers who unlike Police do not have sufficient training or powers to act.

64 per cent of Aucklanders surveyed thought Police should manage the behaviour.

Bylaw no longer used. Council officers have ceased responding to complaints. Police is responsible for addressing issue under new national legislation.

**Is the bylaw aware of the bylaw?**
- There is likely to be limited awareness of the bylaw.
- No. Bylaw not easily read (e.g. no examples of public places), penalties unclear.

**Is the bylaw fit for the future?**
- No. Bylaw not effective. National legislation has replaced the need for the bylaw.

**Any bill of rights implications?**
- The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

### Section 160(1) Local Government Act 2002 recommendation

A bylaw is no longer the most appropriate way to address the issue. The August 2017 amendment to the Land Transport (Road User) Rule 2004 and Land Transport (Vehicle User Safety) Amendment Act 2017 provides a more effective approach. This national legislation allows the Police (who are better trained to approach offenders) to issue infringement fines for car window washing on a road.

#### OPTIONS

<table>
<thead>
<tr>
<th>Option 1: Status quo – Retain current wording and implementation</th>
<th>Option 2: Revoke bylaw clause (RECOMMENDED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covers public places not covered by Land Transport Act (i.e. other than roads) and Auckland Transport bylaw.</td>
<td>Revoke clauses from the bylaw.</td>
</tr>
<tr>
<td>No changes to bylaw wording.</td>
<td>Land Transport Rule becomes key regulatory tool.</td>
</tr>
<tr>
<td>No enforcement. Issue addressed by Police using national legislation.</td>
<td>Council would no longer have a regulatory compliance role.</td>
</tr>
</tbody>
</table>

#### Effectiveness and efficiency:

| × Bylaw applies to public places where there is no issue. Problem only occurs at road intersections. | ✓ Police already address issue under new national legislation. |
| × Bylaw and its enforcement is ineffective. | ✓ Police have better powers and training to manage the issue. |
| × Bylaw could create confusion and duplication of effort between Police and Council. | ✓ Remove unnecessary bylaw regulation. |
| × Retains bylaw regulation that is no longer used. | ✓ No health and safety risk to council officers. |
| | ✓ Aligns with current practice. Council officers have ceased responding to complaints. |

#### Fit for future:

| × Issue occurs on road intersections and is covered under new national legislation that Police enforce. Bylaw ineffective now and in the future. | ✓ Issue occurs on road intersections and is covered under new national legislation that Police enforce. |

| Bill of Rights implications: | Bill of Rights implications: |
| ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. | N/A |

#### Māori impact:

| - Māori are more likely to participate in car window washing. No regulatory intervention on its own can fully address this complex social issue. | - Māori are more likely to participate in car window washing. No regulatory intervention on its own can fully address this complex social issue. |

### Section 160(3) Local Government Act 2002 recommendation

Revoke the bylaw clause on car window washing (Option 2). The amended Land Transport (Road User) Rule 2004 and Land Transport (Vehicle User Safety) Amendment Act 2017 provides an effective regulatory alternative to the bylaw enforced by the Police. Taking this approach will help address nuisance, intimidation and safety risks associated with car window washing on roads and remove health and safety risks to Council officers.
BYLAW CLAUSE 6(3): To prohibit fireworks in a public place unless approved by council; or in any other place in a way that is a nuisance or danger any person, property, dog or other animal in a public place.

STATUTORY OBLIGATIONS/POWERS
- Council may make a bylaw about fireworks to address public nuisance, health, safety, offensive behaviour, or use of public places under Local Government Act 2002 (s145, s146) and public health and nuisance under Health Act (s64).

ISSUES IN 2013
- Injury to persons, fire risks to private and public land (e.g. Piha), noise, litter, distress/injury/death of animals, and fireworks outside of the Guy Fawkes period. No data available on scale or impact of issue.

OUTCOMES SOUGHT AND BYLAW RESPONSE IN 2013
- To ensure that public places are safe and accessible, to minimise nuisances, and where appropriate, use a bylaw rather than relying on other legislation or non-regulatory approaches.
- Both Auckland Council and Auckland Transport bylaws prohibit use of fireworks in a public place unless approved by council; and where set off from any other place, to prohibit nuisance or endangerment to any person, property, dog or other animal in a public place.
- Powers to enforce the bylaw include: seizure of property (s164 to 168 LGA), cost recovery for damage (s176 LGA), ability to request names and addresses (s178 LGA).
- Penalties for bylaw breaches include a maximum $20,000 court fine (s242 LGA), a maximum $500 court fine and a further $50 court fine per day for continuing offences (s66 Health Act).

BYLAW IMPLEMENTATION SINCE 2013
- Auckland Transport delegated enforcement of its bylaw to Auckland Council.
- Council reactively responds to complaints within 2-3 hours.
- During Guy Fawkes two officers respond to complaints and two officers patrol key beaches/parks.
- Officers focus on engagement and education to achieve compliance as there are significant issues identifying perpetrators who often leave, or give false details, often not deterred by Council presence.
- Police respond to safety/property complaints. Council noise control officers respond to noise complaints.
- Public awareness through media (e.g. Our Auckland, Council website and media commentary).
- Non-regulatory initiatives include Council support for controlled public fireworks displays.
- Officers do not use the part of the bylaw about letting off fireworks from any other place (Clause 6(3)(b)).

ISSUES IN 2018
- Nature of issue is comparable with 2013. Peak times are Guy Fawkes, Chinese New Year, and Diwali.
- 447 complaints received from February 2017 to February 2018 mostly in November around Guy Fawkes.
- This is one of the biggest nuisance and safety concerns for Aucklanders (37 per cent surveyed saw the issue in the past year, and 77 per cent of those felt annoyed, angry or threatened).
- Most complaints relate to noise from private residences which are handled by noise control.

OUTCOME SOUGHT IN 2018
- To minimise noise, damage and safety risks related to the letting off fireworks in public places.

BYLAW EVALUATION

Still an issue requiring a bylaw response?
- Yes, there is still an issue that regulation can help address.
- No feasible alternatives to bylaw identified:
  - Police powers limited to fireworks that may injure or alarm people in any place (s35 Summary Offences Act 1981). Police want Council to retain an enforcement role due to limited Police resource.
  - Reserves Act bylaws do not apply to all public places and need Minister of Conservation approval.
  - Government ban on public sale of fireworks could address issue. However, interim solution still needed.

Bylaw effective / efficient?
- Bylaw acts as a deterrent to most people letting off fireworks in a public place when part of a wider approach to increase public awareness about the ban, and support for public displays.
- Enforcement is challenging and resource-intensive. Council does not have capacity to respond to all complaints at peak times, and offenders flee, cannot be identified, or resume activity once officers leave.
- Bylaw may force fireworks onto private property which is a concern but has not been quantified.
- The part of the bylaw about letting off fireworks from any other place is not used by council officers and:
  - duplicates Police powers (s35 Summary Offences Act 1981) for which the penalty is a $200 court fine.
- creates health and safety risks for Council officers that Police are better trained to address, and for which the Police have the power of arrest (s39 Summary Offences Act 1981)
- the reference to animals in Clause 6(3)(b) is ultra vires and not enforceable. Council does not have a statutory power to protect animals from fireworks.

**Bylaw clearly written?** ✓ Yes, wording easy to understand.

**Public aware of bylaw?** ✓ High awareness due to media coverage/Council communication.

**Bylaw fit for the future?**
- ✓ Fireworks in public places likely to remain an issue until there is a national ban on public sale of fireworks.
- ✗ The part of the bylaw about fireworks from any other place is not appropriate as discussed above.

**Any bill of rights implications?**
- ✓ The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

### Section 160(1) Local Government Act 2002 recommendation:
- A bylaw about the use of fireworks in public places remains appropriate to address nuisance and safety issues. However, a bylaw about issues in public places from fireworks in other places is not appropriate. It duplicates Police powers, creates health and safety risks for officers, and contains ultra vires provisions.
- The current bylaw form about fireworks in other places is not appropriate for reasons stated above.
- The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

### OPTIONS

**Option 1: Status quo – Retain wording and implementation**
- Firework ban in public places.
- Bylaw about fireworks set off in other places not enforced.
- Police respond to incidents of injury or alarm to people in public places from fireworks let off in any place.
- Noise control responds to noise complaints.

**Option 2: Amend wording to remove provisions about fireworks set off in other places (RECOMMENDED)**
- Firework ban in public places.
- Police respond to incidents of injury or alarm to people in public places from fireworks set off in any place.
- Noise control responds to noise complaints.

**Option 3: Revoke bylaw**
- Fireworks allowed in public places.
- Police respond to incidents of injury or alarm to people in public places from fireworks set off in any place.
- Noise control responds to noise complaints.

**Effectiveness and efficiency:**
- ✓ Will deter people from letting off fireworks in a public place.
- ✗ Enforcement challenging and resource-intensive.
- ✗ Retains bylaw provision about fireworks on other places that is not used by Council officers, duplicates Police powers, and contains ultra vires provisions.

**Effectiveness and efficiency:**
- ✓ Will deter people from letting off fireworks in a public place.
- ✗ Enforcement challenging and resource-intensive.
- ✓ Removes bylaw provision about fireworks on other places that is not used by Council officers, duplicates Police powers, contains ultra vires provisions.

**Effectiveness and efficiency:**
- ✗ Increase in the use and issues from fireworks in public places.
- ✗ May increase demands on limited Police resources to respond to safety issues in public places.
- ✗ Public criticism of Council from removal of public places ban.

**Bill of Rights implications:**
- ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

**Bill of Rights implications:**
- ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

**Bill of Rights Implications:**
- N/A

**Fit for future:**
- ✓ Will deter people from letting off fireworks in a public place.
- ✗ Retains inappropriate provision about fireworks in other public places.

**Fit for future:**
- ✓ Will deter people from letting off fireworks in a public place.
- ✓ Removes inappropriate provision about fireworks in other public places.

**Fit for future:**
- ✗ Increase in the use and issues from fireworks in public places.
- ✓ Removes inappropriate provision about fireworks in other public places.

**Note:** None of these options prevent Council advocating for a national ban on the public sale of fireworks.

### Section 160(3) Local Government Act 2002 recommendation:
The bylaw should be amended (Option 2) to retain the ban on fireworks in public places but remove clause 6(3)(b) about fireworks on other public places. Clause 6(3)(b) is not used, duplicates Police powers, and contains ultra vires provisions. Taking this approach will continue to address issues about fireworks while removing unnecessary and inappropriate bylaw regulations.
**BYLAW CLAUSE 9(5)(q): Seeks to prohibit interference with lifesaving equipment, warning devices or notices on a beach unless with prior approval from Council.**

<table>
<thead>
<tr>
<th>STATUTORY OBLIGATIONS/POWERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Council may make a bylaw about the use of lifesaving equipment to address public nuisance, public health and safety, offensive behaviour, or use of public places under the Local Government Act 2002 (s145, s146).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ISSUES IN 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Interference with lifesaving equipment and warning devices on beaches could create risk to public safety.</td>
</tr>
<tr>
<td>• No data available on scale or impact of the problem. No data available on number or location of equipment.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>• To ensure public safety, minimise nuisance, and manage the use of land, assets, or structures on parks and beaches.</td>
</tr>
<tr>
<td>• Auckland Council bylaw prohibits interference with lifesaving equipment, warning devices, or notices on a beach.</td>
</tr>
<tr>
<td>• Powers to enforce bylaw include seizure of property (s164 to 168 LGA), cost recovery for damage (s175 LGA), and ability to request name and address (s178 LGA).</td>
</tr>
<tr>
<td>• Penalties for bylaw breaches include a maximum $20,000 court fine (s242(4) LGA).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BYLAW IMPLEMENTATION SINCE 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Park rangers have not used the bylaw, in part due to a lack of training.</td>
</tr>
<tr>
<td>• Council community facility maintenance team replaces or repairs damaged lifesaving equipment.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ISSUE IN 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Council maintenance team reports rare incidents of removal of life preservers, but other related equipment such as ropes are often removed and must be replaced.</td>
</tr>
<tr>
<td>• No complaints data, but interference with lifesaving equipment witnessed by 9 per cent of Aucklanders surveyed. Of those, 95 per cent considered the issue a significant safety risk.</td>
</tr>
<tr>
<td>• No related issues reported by Harbormaster or Auckland Transport on wharves.</td>
</tr>
<tr>
<td>• No enforcement. Limited ability to identify offenders.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OUTCOME SOUGHT IN 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>• To help maintain quality infrastructure to make Auckland liveable and resilient by ensuring lifesaving equipment, warning devices and notices are available for appropriate use on parks and beaches.</td>
</tr>
</tbody>
</table>

**BYLAW EVALUATION**

Still an issue requiring a bylaw response?

✓ This is an issue of low frequency but high potential impact that regulation can help address.

✗ Feasible regulatory alternatives exist, but require a higher threshold of behaviour:

  • The Local Government Act 2002 (s232) provides an offence to wilfully, maliciously or negligently interfere with any Council property. Penalties include a maximum $20,000 court fine (s242(1) LGA).
  • Police can address wilful damage or removal of warning devices under Summary of Offences Act 1981 which carry a maximum penalty of a three month prison term or a maximum $2,000 court fine (s11, s12).

Bylaw effective / efficient?

✗ Bylaw not used. Offenders difficult to identify unless “caught in the act”. Damage is instead repaired/replaced.

✗ Applies only to beaches, and excludes equipment, devices and notices in other public places (e.g. Hunua Falls). Data not available on location, but some could potentially be located on parks or roads.

Bylaw clearly written?

✗ Wording hard to follow because it relates to safety or damage (clauses 6 and 7) but is contained in clause 9 for beaches.
Public aware of bylaw?
- Likely to be low. There are no known public awareness initiatives.

Bylaw fit for the future?
- While it could be used, in practice it is not. Further, the bylaw only applies to beaches which preclude lifesaving equipment, warning devices or notices adjacent to the beach (on a park or road).

Any bill of rights implications?
- The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

Section 160(1) Local Government Act 2002 recommendation:
A bylaw is not the most appropriate way to address the interference with lifesaving equipment, warning devices or notices now or in the future. Adequate powers to respond to the issue already exist in section 232 of the Local Government Act 2002 and Summary of Offences Act 1981.

OPTIONS

Option 1: Status quo – Retain current wording and implementation approach
- No changes to wording (only applies to beaches).
- No enforcement. Any damage repaired/replaced.

- Revokes bylaw clause which is not used.
- Local Government and Summary of Offences Act would be used for enforcement.
- Council would continue to repair any damage.

Effectiveness and efficiency:
- Bylaw not used.
- Enables Council enforcement if the person responsible is identified (has not occurred to date).
- Applies only to beaches; excludes equipment, devices and notices on parks, roads and waterways.

Effectiveness and efficiency:
- Enables Council enforcement in all public places if the person responsible is identified (not occurred to date).

Bill of Rights implications:
- Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.

Bill of Rights implications:
- N/A

Fit for future:
- Bylaw not used, and only applies to beaches.

Fit for future:
- Enables enforcement action on any public place.

Māori impact/risk:
- The issue and risks are the same for all Aucklanders.

Māori impact/risk:
- The issue and risks are the same for all Aucklanders.

Section 160(3) Local Government Act 2002 recommendation:
The bylaw clause should be revoked (Option 2), and existing legislation used instead. The bylaw is not used, and adequate powers already exist in section 232 of the Local Government Act 2002 and Summary of Offences Act 1981 if required. Taking this approach will remove unnecessary bylaw regulation while still allowing Council to take action against any offenders if they are identified.
### BYLAW CLAUSE: 8(1)(e) To prevent obstructions on public places from goods being packed or stored

#### STATUTORY OBLIGATIONS/POWERS

- Council may make a bylaw about storing and packing goods to address public nuisance, health, safety, offensive behaviour, or use of public places under the Local Government Act 2002 (s145, s146), and to address public health and nuisance under the Health Act 1956 (s64, s65).

#### ISSUE IN 2013

- Obstructions on footpaths, roads, parks and beaches causing nuisance and affecting public safety and accessibility.

#### OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013

- To provide for appropriate behaviour, safety and to minimise nuisance in public places.
- Auckland Council and Auckland Transport bylaws prohibit obstruction from storing or packing of goods in public.
- Powers to enforce bylaw include court injunction (s162 LGA), seizure of property (s164 to 168 LGA), request name and address (s178 LGA).
- Penalties for bylaw breaches include a maximum $20,000 court fine (s242(4) LGA), or a maximum $500 court fine and a further $50 court fine per day for continuing offences (s66 Health Act).

#### BYLAW IMPLEMENTATION SINCE 2013

- Council investigates complaints as a low priority using a graduated approach to compliance.
- No promotion or awareness initiatives about clause.

#### ISSUE IN 2018

- People storing or leaving a range of items on footpaths, parks and other public places that causes an obstruction, nuisance, safety risk, or misuse of public places.
- Of the Aucklanders surveyed, 24 per cent had seen the issue in the past 12 months. Of those, 86 per cent found the packing or storing of goods in a public place to be a nuisance or safety issue.
- No complaints recorded in 2015 and 2016.
- The issue is considered to typically occur on footpaths but could also occur in parks.

#### OUTCOME SOUGHT IN 2018

- To create a stunning city centre, with well-connected quality towns, villages and neighbourhood by regulating nuisance, safety issues and the misuse of public places from storing or packing goods.

#### BYLAW EVALUATION

**Still an issue requiring a bylaw response?**

- ✓ There is still an issue that the regulation can help address.
- ✓ There are no feasible regulatory alternatives. The Police can use the Summary of Offences Act 1982 (s22), but this is limited to obstructions to a public way (which is mainly the jurisdiction of Auckland Transport) and would not include parks for instance. It also does not provide for managing the use of public places.

**Bylaw effective / efficient?**

- ✓ Bylaw can be effective in addressing issues as offender likely to be identifiable.
- ✗ Only prohibits the activity when it creates an obstruction, but issue also relate to the misuse of public places
- ✗ Creates an inconsistency with the Auckland Council Trading and Events in Public Places Bylaw 2015 (trading bylaw). The trading bylaw manages the use of public places, including the display of goods for trading purposes.

**Bylaw clearly written?**  ✗ No. The fact that sub- clause (e) only applies where it is an obstruction is not clear.

**Public aware of bylaw?**  ✗ Likely to be low.

**Bylaw fit for the future?**  ✗ No. Does not address issues effectiveness and efficiency issues.

**Any bill of rights implications?**

- ✓ The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.

#### SECTION 160(1) LOCAL GOVERNMENT ACT 2002 RECOMMENDATION:

- A bylaw remains an appropriate way to address the storing or packing of goods in public places.
- The current bylaw form is not the most appropriate because it does not address the misuse of public places and is inconsistent with the Auckland Council Trading and Events in Public Places Bylaw 2015.
- The current bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights 1990.
<table>
<thead>
<tr>
<th>OPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1: Status quo – Retain current wording and implementation</td>
</tr>
<tr>
<td>• Storage or packaging of goods in a public place only prohibited if causing an obstruction unless approved by council.</td>
</tr>
<tr>
<td>• Council responds to complaints.</td>
</tr>
</tbody>
</table>

| Effectiveness and efficiency: |
| × Issues associated with misuse of public places remains. |
| × Inconsistency with trading bylaw remains. |
| ✓ Enables council to respond to complaints using a graduated compliance approach. |

| Option 2: (RECOMMENDED) Amend – Prohibit use of public places to store or pack goods |
| • Use of public places to store or pack goods prohibited unless approved by council (exemptions may apply). |
| • Council responds to complaints. |

| Effectiveness and efficiency: |
| ✓ Addresses issues associated with misuse of public places. |
| ✓ Addresses inconsistency with trading Bylaw. |
| ✓ Enables council to respond to complaints using a graduated compliance approach. |
| ✓ Amendment can provide for exemptions where appropriate. Exemptions for homeless and temporary use should be investigated. |

| Option 3: Revoke bylaw – Rely on Auckland Transport bylaw and Police enforcement of obstructions of public ways |
| • Obstruction of public ways to store or pack goods prohibited. |
| • Auckland Transport and Police respond to complaints. |

| Effectiveness and efficiency: |
| × Police unlikely to prioritise enforcement. |
| × Council under delegation from Auckland Transport would only respond to obstructions on the Auckland Transport system (issues associated with misuse of public places remains). |

| Bill of rights implications: |
| ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. |

| Bill of rights implications: |
| ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. |

| Fit for future: |
| × No. Does not address the misuse of public places, nor inconsistency with the trading bylaw. |

| Fit for future: |
| ✓ Yes. Addresses issues associated with misuse of public places (not only obstructions). Can also provide for appropriate exemptions. |

| Māori impact/risk: |
| ✓ Risk around homeless (who are more likely to be Māori) storing of possessions in public places not an issue where it does not cause an obstruction. |

| Māori impact/risk: |
| - Risk around impact on homeless (who are more likely to be Māori) storing of possessions in public places requires investigation. |

| Māori impact/risk: |
| ✓ Risk around homeless (who are more likely to be Māori) storing of possessions in public places not an issue where it does not cause an obstruction. |

**SECTION 160(3) LOCAL GOVERNMENT ACT 2002 RECOMMENDATION:**
The Bylaw should be amended (Option 2) to prevent the misuse of public places associated with the storing or packing of goods, and to be consistent with the Auckland Council Trading and Events in Public Places Bylaw 2015. Exemptions if appropriate can be provided and should be investigated. Taking this approach will better prevent nuisance, safety, and the misuse of public places from storing or packing goods.
Attachment B: Relevant legislation for bylaw review

Local Government Act 2002

160 Procedure for and nature of review

(1) A local authority must review a bylaw to which section 158 or 159 applies by making the determinations required by section 155.

(2) For the purposes of subsection (1), section 155 applies with all necessary modifications.

(3) If, after the review, the local authority considers that the bylaw—
   (a) should be amended, revoked, or revoked and replaced, it must act under section 156;
   (b) should continue without amendment, it must—
      (i) consult on the proposal using the special consultative procedure if —
         (A) the bylaw concerns a matter identified in the local authority’s policy under section 76AA as being of significant interest to the public; or
         (B) the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed continuation of the bylaw; and
      (ii) in any other case, consult on the proposed continuation of the bylaw in a manner that gives effect to the requirements of section 82.

(4) For the purpose of the consultation required under subsection (3)(b), the local authority must make available—
   (a) a copy of the bylaw to be continued; and
   (b) the reasons for the proposal; and
   (c) a report of any relevant determinations by the local authority under section 155.

(5) This section does not apply to any bylaw to which section 10AA of the Dog Control Act 1996 applies.

155 Determination whether bylaw made under this Act is appropriate

(1AA) This section applies to a bylaw only if it is made under this Act or the Maritime Transport Act 1994.

(1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.

(2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—
   (a) is the most appropriate form of bylaw; and
   (b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.

(3) No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.
Memo

15 February 2018

To: Chair and members of the Regulatory Committee

From: Kataraina Maki – GM, Community and Social Policy

Subject: Public Safety and Nuisance Bylaw review – Schedule of reports to Regulatory Committee May – June 2018

Purpose
1. To outline when topics within the Public Safety and Nuisance Bylaw 2013 (the Bylaw) review will be reported to the Regulatory Committee.

Background
2. The review of the Bylaw must be completed by the statutory deadline of August 2018. The reporting schedule sets out a process to meet this deadline.
3. Elected members at the Regulatory Committee Workshop on 8 February 2018 indicated that the review should be divided into parts and reported to consecutive Regulatory Committee meetings. This is to ensure elected members can adequately consider the 49 topics contained in the Bylaw.

Reporting Schedule
4. The below table lists when each topic that will be reported to the Regulatory Committee.
5. Each report will contain an assessment of each clause that meets statutory review requirements (including appropriateness of bylaw, bylaw form and bill of rights issues). It will also include recommendations on the next steps (e.g. whether the Bylaw clause should be confirmed, amended or revoked).

<table>
<thead>
<tr>
<th>Regulatory Committee Meeting</th>
<th>General Topic Category (examples)</th>
<th>Number of topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>March</td>
<td>Street naming, building/property numbering, car window washing, fireworks, lifesaving equipment, storage of goods</td>
<td>6</td>
</tr>
<tr>
<td>April</td>
<td>Damage and obstructions (including damaging, removing, interfering with council property)</td>
<td>12</td>
</tr>
<tr>
<td>May</td>
<td>Nuisance / Safety behaviour (including begging, skateboarding, PA systems, lighting fires, graffiti)</td>
<td>11</td>
</tr>
<tr>
<td>June</td>
<td>Parks and beaches (including set netting, use of weapons, killing animals, cars on beaches)</td>
<td>20</td>
</tr>
</tbody>
</table>

Next Steps
6. From June staff will prepare a Statement of Proposal to implement the decisions of the Regulatory Committee to confirm, amend, or revoke the Bylaw.
7. The Statement of Proposal will be reported to the Regulatory Committee to recommend to the Governing Body for the purposes of public consultation, and appoint a panel. The panel will consider public views and make a recommendation to the Governing Body.
8. This process is anticipated to start in August 2018 and be completed by March 2019.
<table>
<thead>
<tr>
<th>Bylaw clause</th>
<th>Auckland Council Bylaw clause – recommended direction for any change</th>
<th>Assessment</th>
<th>Conflict between Auckland Council and Auckland Transport?</th>
</tr>
</thead>
</table>
| Street naming | Revoke bylaw clause                                                  | • Bylaw clause duplicated in Auckland Transport bylaw. Enforcement delegated to Auckland Council.  
• Revoking bylaw clause would not create a conflict because the installation of road name signs will still be performed by Auckland Transport in line with its powers to manage the transport system.  
• Inclusion of this clause in the Auckland Council bylaw is not necessary. | No        |
| Building and property numbers | Revoke bylaw clause                                                  | • Bylaw clause duplicated in Auckland Transport bylaw. Enforcement delegated to Auckland Council.  
• Revoking bylaw clause would not create a conflict because the display and maintenance of building/property numbers is a function of Auckland Transport in line with its powers to manage the transport system. | No        |
| Lifesaving equipment | Revoke bylaw clause                                                  | • This bylaw clause is not duplicated in the Auckland Transport bylaw. | No        |
| Fireworks | Retain clause 6(3)(a) fireworks in public places  
Revoke clause 6(3)(b) fireworks in other places effecting people and animals in public places | • Bylaw clause duplicated in Auckland Transport bylaw. Enforcement delegated to Auckland Council.  
• Revoking bylaw clause 6(3)(b) would not create a conflict because:  
o the bylaw clause is not used in practice  
o it is still an offence regulated by legislation to injure or alarm people or damage property  
o the wording about animals is ultra vires 1 and not enforceable in either bylaw.  
• The difference in rules however could cause public confusion. This can be mitigated through appropriate public communication of how both bylaws apply to the issue. | No        |
| Storing and packing goods | Amend bylaw clause                                                  | • Bylaw clause duplicated in Auckland Transport bylaw. Enforcement delegated to Auckland Council.  
• Amending bylaw clause may create public confusion because each bylaw would have different rules for the same activity in the same places but for different justifiable reasons (obstruction vs use of public places).  
• This risk can be mitigated either through appropriate public communication or when Auckland Transport review its bylaw. | Possible |
| Car window washing | Revoke bylaw clause                                                  | • Bylaw clause duplicated in Auckland Transport bylaw. Enforcement delegated to Auckland Council.  
• Revoking the bylaw clause would not create a conflict because the jurisdictions for the bylaw clause differ. The Auckland Transport bylaw applies to the Auckland Transport System where the activity is traffic related (e.g. at road intersections), while the Auckland Council bylaw applies to other public places (e.g. parks where the issue does not occur).  
• The difference in rules could cause public confusion. This can be mitigated through appropriate public communication of how both bylaws apply to the issue until Auckland Transport reviews its bylaw clause. | No        |

---

1 Decisions or actions outside the lawful powers of a person or body
Te take mō te pūrongo / Purpose of the report
1. To provide a quarterly update of regulatory hearings under the Resource Management Act 1991.

Whakarāpopototanga matua / Executive summary
2. This report provides a summary of hearings held in the period 1 October to 31 December 2017 and the commissioners appointed to those hearings.

Ngā tūtohunga / Recommendation/s
That the Regulatory Committee:

Horopaki / Context
3. The Regulatory Committee holds the responsibility for regulatory hearings required by relevant legislation. The majority of these fall within the area of resource consents and notices of requirement under the Resource Management Act 1991. The Committee oversees who the decision maker(s) should be in relation to the matters that need to be heard, and the position to be taken in regards to any appeals of those decisions.
4. The delegation to appoint hearing commissioners has been delegated to staff. Guidance for the assignment of commissioners to a particular hearing follows clauses 3.7 to 3.12 of the Regulatory Committee Policy. The staff in assigning commissioners must therefore take into account the nature and issues raised by an application, and hence the need for particular expertise including mataurangi Māori and tikanga Māori. Local Board members as commissioners can also be considered for matters that are significant or contentious.
5. The assignments of the hearing commissioners for this three month period, is as set out in Attachment A. The assignments occur well in advance of the hearing and therefore an assigned alternate will often be part of the actual hearing panel due to availability.
6. The reporting of resource consent appeals occurs separately as part of a monthly up-date appeals report.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views
7. Local Boards are not involved with the appointment of commissioners.

Tauākī whakaaweawe Māori / Māori impact statement
8. The decision requested of the Regulatory Committee is to receive this report rather than appoint commissioners to hearings. The Committee policy at 3.7 includes “the desirability of appointing a person with relevant expertise in mataurangi Māori and tikanga Māori” as a consideration in the appointment of hearing panel members. Further policy 3.8 states “Where a matter covers areas of significance to Māori, council staff will consult with IMSB staff on the appointments”.

Ngā ritenga ā-pūtea / Financial implications

9. The cost of independent hearing commissioners is covered by the applicants of those applications that are required to be heard.

Ngā tāpirihanga / Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>Resource Consent Hearings Held 1 October - 31 December 2017</td>
<td>53</td>
</tr>
</tbody>
</table>

Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Authorisers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Andrews</td>
<td>Ian Smallburn - General Manager Resource Consents</td>
</tr>
<tr>
<td></td>
<td>Penny Pirrit - Director Regulatory Services</td>
</tr>
<tr>
<td>Hearing Date</td>
<td>Location and Proposal:</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>11,12,13 October</td>
<td>Coastal Marine Area Waiuku Estuary adjacent to Golf Course, Clarks Beach</td>
</tr>
<tr>
<td>12 October</td>
<td>106 Totara Road &amp; 50-52 Brigham Creek Road, Whenuapai To establish a Service Station</td>
</tr>
<tr>
<td>31 October</td>
<td>287 Tuhirangi Road, Kakanui Section 357A objection to refusal to issue a Certificate of Compliance</td>
</tr>
<tr>
<td>3 November</td>
<td>782 Haruru Road, Wainui Establish and operate a 125,000m3 cleanfill</td>
</tr>
<tr>
<td>Date</td>
<td>Location Description</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>20 November</td>
<td>Orewa Beach Esplanade Reserve</td>
</tr>
<tr>
<td></td>
<td>To undertake works and establish structures, associated with the protection and enhancement of the esplanade reserve</td>
</tr>
<tr>
<td>27,28 November</td>
<td>50 Onehunga Mall, Onehunga</td>
</tr>
<tr>
<td></td>
<td>Four storey apartment building</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>28,29 November</td>
<td>12 Nick Johnstone Drive, Waiheke Island</td>
</tr>
<tr>
<td></td>
<td>Establish a dining area for restaurant and function use</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>29 November</td>
<td>5-7 Onetangi Road, Waiheke Island</td>
</tr>
<tr>
<td></td>
<td>357A objection to conditions for new dwelling</td>
</tr>
<tr>
<td>29 November</td>
<td>488 and 496C Hibiscus Coast Highway, Orewa</td>
</tr>
<tr>
<td>December</td>
<td>Integrated residential development</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>6 December</td>
<td>20 Cornwall Place, Hingaia</td>
</tr>
<tr>
<td></td>
<td>S128 RMA review of conditions of an annual light and sound show</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Attachment A

#### Item 12

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Description</th>
<th>Chairperson</th>
<th>Commissioners</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 &amp; 7 December</td>
<td>10 Monk Road, Waiheke</td>
<td>Expansion of chicken farm sheds for 230,000 birds</td>
<td>Chairperson: Greg Hill(planning)</td>
<td>Commissioners: Kim Hardy(planning)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: Robert Scott(planning)</td>
<td></td>
<td>DECISION PENDING</td>
</tr>
<tr>
<td>6, 7, 8 &amp; 11 December</td>
<td>Cleveden Quarry 546 McNicol Rd, Clevedon</td>
<td>Expand an existing quarry activity and provide for an increase in annual production</td>
<td>Chairperson: David Hill(planning)</td>
<td>Commissioners: Janine Bell(planning)</td>
<td>Yes (LB)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: David Hill(planning)</td>
<td>Commissioners: Dave Serjeant(planning)</td>
<td>GRANTED</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Nigel Mark-Brown(engineering)</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Brent Catchpole(Local Board)</td>
<td></td>
</tr>
<tr>
<td>11 December</td>
<td>2 Oxford Terrace, Devonport</td>
<td>Remove two eucalyptus trees from the road reserve</td>
<td>Chairperson: Alan Watson(planning)</td>
<td>Commissioner: Bridget Gilbert(landscape)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: Alan Watson(planning)</td>
<td>Commissioner: Gavin Lister(landscape)</td>
<td>GRANTED</td>
</tr>
<tr>
<td>12 December</td>
<td>178 Hungry Creek Road, Puhoi</td>
<td>357A objection to conditions for 3 lot rural subdivision</td>
<td>Chairperson: Robert Scott(planning)</td>
<td>Commissioner: Hugh Leersnyder(natural resources)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: Robert Scott(planning)</td>
<td>Commissioner: Hugh Leersnyder(natural resources)</td>
<td>UPHELD IN PART</td>
</tr>
<tr>
<td>13, 14 &amp; 15 December</td>
<td>Panmure to Pakuranga</td>
<td>Notice of Requirement and Resource Consent Applications for AMETI Stage 2A</td>
<td>Chairperson: Leigh McGregor(RMA law)</td>
<td>Commissioners: William Kapesi(lwi)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: Leigh McGregor(RMA law)</td>
<td>Commissioners: William Kapesi(lwi)</td>
<td>ACCEPTED IN WHOLE / GRANTED</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Rebecca Skidmore/design and landscape</td>
<td></td>
</tr>
<tr>
<td>18 December</td>
<td>20 Altfriston Road and 37 Halver Road, Manurewa</td>
<td>Construct 24 residential apartment units and a 47 unit</td>
<td>Chairperson: Greg Hill(planning)</td>
<td>Commissioner: Ian Munro(urban design/planning)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairperson: David Hill(planning)</td>
<td>Commissioner: Ian Munro(urban design/planning)</td>
<td>GRANTED</td>
</tr>
<tr>
<td>Date</td>
<td>Description</td>
<td>Chairperson:</td>
<td>Chairperson:</td>
<td>Decision</td>
<td></td>
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<td>-----------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>18,19 December</td>
<td>3-7 Woodlands Crescent and 786, 788, 790 &amp; 792 Beach Road, Browns Bay&lt;br&gt;Redevelopment of existing aged-care facility (62 serviced apartments and 58 care beds)</td>
<td>Les Simmons(planning) Commissioner:</td>
<td>David Mead(planning)&lt;br&gt;Trevor Mackie(urban design/planning)</td>
<td>No</td>
<td>GRANTED</td>
</tr>
<tr>
<td>19 December</td>
<td>197-211 Greenlane West, Epsom (Cornwall Park) &lt;br&gt;To remove two notable magnolia trees</td>
<td>David Hill(planning) Commissioner:</td>
<td>Bridget Gilbert( landscape):&lt;br&gt;Cherie Lane(planning)</td>
<td>No</td>
<td>GRANTED</td>
</tr>
<tr>
<td>19 December</td>
<td>244 Postman Road &amp; Wilks Road, Dairy Flat&lt;br&gt;43-lot Rural subdivision</td>
<td>Karen Sinclair(planning) Commissioner:</td>
<td>Vaughan Smith</td>
<td>Yes (LB)</td>
<td>DECISION PENDING</td>
</tr>
</tbody>
</table>

*Those applications forwarded for consultation with the Independent Maori Statutory Board*

*Regulatory Committee meeting on 8 March 2018*
Regulatory Committee Summary of Information Items - 8 March 2018

File No.: CP2018/02211

Te take mō te pūrongo / Purpose of the report
1. To provide an update of all current resource consent appeals lodged with the Environment Court (Attachment B).
2. To note progress on the forward work programme (Attachment B).
3. To provide a public record of memos, workshop or briefing papers that have been distributed for the Committee’s information since the 8 February 2018.

Whakarāpopototanga matua / Executive summary
4. This is a regular information-only report which aims to provide public visibility of information circulated to committee members via memo or other means, where no decisions are required.
5. The workshop papers and any pervious documents can be found on the Auckland Council website at the following link: http://infocouncil.aucklandcouncil.govt.nz/
   • at the top of the page, select meeting “Regulatory Committee” from the drop-down tab and click ‘View’;
   • under ‘Attachments’, select either HTML or PDF version of the document entitled ‘Extra Attachments’.
6. The following memo was circulated to members:
   • 15/02/18 - Memo to Regulatory Committee on Report Schedule for Public Safety and Nuisance bylaw.
7. Note that, unlike an agenda decision report, staff will not be present to answer questions about these items referred to in this summary. Committee members should direct any questions to the authors.

Ngā tūtohunga / Recommendation/s
That the Regulatory Committee:
   a) receive the information report.

Ngā tāpirihanga / Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Resource Consent Appeals and Appeals Register</td>
<td>59</td>
</tr>
<tr>
<td>B</td>
<td>Regulatory Committee Forward Work Programme - 8 March 2018</td>
<td>71</td>
</tr>
<tr>
<td>C</td>
<td>DRAFT Public Safety and Nuisance Bylaw review workshop - presentation (Under Separate Cover)</td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>Memo - Public Safety and Nuisance Bylaw review - Report Schedule (Under Separate Cover)</td>
<td></td>
</tr>
</tbody>
</table>

Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Maea Petherick - Senior Governance Advisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authoriser</td>
<td>Penny Pirrit - Director Regulatory Services</td>
</tr>
</tbody>
</table>
Resource Consent Appeals: Status Report 8 March 2018

File No.: 

Purpose
1. To provide an update of all current resource consent appeals lodged with the Environment Court.

Executive summary
2. This report provides a summary of current resource consent appeals to which the Auckland Council is a party. It updates our report of 31 January 2018 to the Regulatory Committee.
3. If committee members have detailed questions concerning specific appeals, it would be helpful if they could raise them prior to the meeting with Robert Andrews (phone: 353-9254) or email: robert.andrews@aucklandcouncil.govt.nz) in the first instance.

Recommendation/s
That the Regulatory Committee:

Comments
4. As at 27 February 2018, there are 23 resource consent appeals to which Auckland Council is a party. These are grouped by Local Board Area geographically from north to south as set out in Attachment A. Changes since the last report and new appeals received are shown in bold italic text.
5. The principal specialist planners - resource consents, continue to resolve these appeals expeditiously. In the period since preparing the previous status report, there have been three new appeals and one appeal has been resolved.
6. The new appeal by Sai 1 Trust is against council’s decision on a section 357 objection to the rejection of a resource consent application for processing under s88 of the RMA. The application that was rejected seeks the construction of an extension to an existing building to provide an additional unit on the site at 325 Mount Albert Road, Mount Roskill.
7. The second appeal by Cable Bay Wines Limited relates to a decision to refuse retrospective consent relating to the unlawful establishment and use of an additional dining area known as ‘The Verandah’. The principal issues in contention relate to the scale and intensity of the activity and the general amenity / noise effects associated with the verandah’s use.
8. A further new appeal is from the Manukau Harbour Restoration Society Inc, a submitter to an application by Watercare Services Limited. The application seeks consent to construct a pipeline and outfall structure within the coastal marina area and for the discharge of treated wastewater to the Waikuku Estuary.

Consideration

Local board views and implications
9. Not applicable.
Māori impact statement

10. The decision requested of the Regulatory Committee is to receive this progress report rather than to decide each appeal.

11. The Resource Management Act 1991 includes a number of matters under Part 2, which relate to the relationship of Tangata Whenua to the management of air, land and water resources. Māori values associated with the land, air and freshwater bodies of the Auckland Region are based on whakapapa and stem from the long social, economic and cultural associations and experiences with such taonga.

Implementation

12. Environment Court appeal hearings can generate significant costs in terms of commissioning legal counsel and expert witnesses and informal mediation and negotiation processes seek to limit these costs. Although it can have budget implications, it is important that Auckland Council, when necessary, ensure that resource consents maintain appropriate environmental outcomes and remain consistent with the statutory plan policy framework through the appeal process.

Attachments

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Current Resource Consent Appeals as at 27 February 2018</td>
</tr>
</tbody>
</table>

Signatories

<table>
<thead>
<tr>
<th>Authors</th>
<th>Robert Andrews - Resolutions Team Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisers</td>
<td>Ian Smallburn - General Manager Resource Consents</td>
</tr>
<tr>
<td></td>
<td>Penny Pirrit - Director Regulatory Services</td>
</tr>
</tbody>
</table>
### RODNEY – Local Board Area (3 APPEALS)

**Attachment A: for 8 March 2018**

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Reference Details</th>
<th>Received</th>
<th>Date</th>
</tr>
</thead>
</table>

#### Item 13

**Applicant**

**Albert Road Investments Limited**

**References**

- ENV-2017-AKL-0075
- Council – SUB600069647

**Site address**

102 Hudson Road, Warkworth.

**Other parties**

None

**Description**

Appeal by the applicant against council’s decision to refuse to allow subdivision of a 2800m2 lot around the existing dwelling on site from the balanced land of 1.315ha at 102 Hudson Road, Warkworth.

**Iwi comments**

No cultural values assessments prepared with the application that was processed on a non-notified basis.

**Status**

Court has issued an evidence timetable: appellant evidence 1 September, council evidence 6 October, and appellant rebuttal evidence 27 October. Two days of hearing time reserved for either week of 27 November or 4 December 2017. Evidence preparation occurring under above timetable is now complete and the matter has been set for hearing on the week starting 19 February 2018. *The appeal proceeded to a 2 day hearing 19-20th February 2018. Decision has been reserved.*

**Applicant**

**Kumeu Property Limited**

**References**

- ENV-2017-AKL-044
- Council – L68001, REG68001, REG68002, REG68003 & REG68004

**Site address**

455 Taupaki Road, Taupaki

**Other parties**


**Description**

Appeal by an applicant against council’s decision to refuse consent to establish and operate an aged care facility with on-site servicing, with 102 hospital beds and 157 assisted living beds at 455 Taupaki Road, Taupaki.

**Iwi comments**

Nga Maunga Whakahii o Kaipara – “no risk to the mauri of the land or water table given the proposed onsite storm water options (rain gardens) and waste management systems”. Accidental discovery protocol, opportunity to bless the site before earthworks, and opportunity to submit names for facilities and open spaces recommended.

**Status**

Parties to advise court by 5 May 2017 whether they agree to mediation. Appeal currently ‘on hold’ pending outcome of mediation set down for 29 June 2017. The applicant post mediation is considering an alternate design of that will be the subject of a further mediation set down on 9th August 2017. Second mediation held with no agreement reached. Appellant has confirmed that they wish to proceed to hearing with an alternate design. The court has issued a timetable for evidence exchange, with a hearing date. Evidence currently being prepared. All evidence exchanged and court hearing set. *The appeal proceeded to a 5 day hearing 12-16th February 2018 with the neighbour and resident group parties actively involved. Decision has been reserved.*

*Region-wide Appeals Register 8 March 2018*
### Attachment A

**Item 13**

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Matakana Coast Trail Trust</th>
<th>Received</th>
<th>9 March 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-020 Council – SLC66696, REG66698 &amp; REG66699</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Multiple sites located in and around Moir Hill Road, Ahuroa.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>None.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal by a submitter against the council’s decision to grant consent to a 207-lot rural-residential subdivision and rehabilitation (including revegetation and weed and pest management) of approximately 1,375 ha of the 1,508 ha site with associated vegetation clearance, earthworks, streamworks, stormwater discharge and wastewater disposal. Appeal specifically relates to the lack of a condition requiring a walking and cycle path to be provided through the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>CIA provided by Ngati Manuhi. Applicant to work with Ngati Manuhi to develop an iwi liaison framework to enable their recommendations to be considered during the detailed design process and during physical works on site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Applicant does not wish to participate in mediation. Joint memorandum filed with the Court with proposed timetable for a hearing; extended by two weeks with appellant evidence 16 June, applicant and council evidence 30 June, appellant reply evidence 14 July. Court hearing held 7 to 11 August 2017. The Court released an interim decision on 1 September that determines that a connecting walking and cycling trail between Dorset and Watson Roads should be provided. Parties will need to agree conditions on how this is to be achieve and have agreed to a court assisted conferencing session on 6th November 2017. Still in the process of finalising conditions following the conferencing session.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**UPPER HARBOUR - Local Board Area (4 APPEALS)**

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Scanlon, New Kiwis Limited &amp; The Swim Centre Limited v Auckland Council</th>
<th>Received</th>
<th>27 January 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV–2017-AKL-009 Council – SUB60032697</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>364, 378, 382, 404 Upper Harbour Drive &amp; 128 Albany Highway, Greenhithe</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>None.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal by submitters against the granting of subdivision consent for 44 residential lots.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>Ngati Whatua Orakei Iwi Authority – Neutral. Main reasons for concern were discharge of stormwater, removal of trees, and earthworks. Recommended cultural monitoring by NWO, use of Accidental Discovery Protocol, and cultural heritage induction for all contractors involved.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Appeal reported to the Regulatory Committee on 12 April 2017. Mediation held 20 April 2017 and 25 May 2017, where the parties could not reach agreement regarding access design, landscaping and other matters. In a court report of 29 September the applicant and appellant have asked for more time to develop revised plans and resolutions to outstanding issues. A further mediation may be set.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Region-wide Appeals Register 8 March 2018
## Item 13

### Regulatory Committee Summary of Information Items - 8 March 2018

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Item 13: Harbour Hockey Charitable Trust v Auckland Council</th>
<th>Received</th>
<th>1 August 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV–2017-AKL-000113 Council – BUN60067380, LUC60067381, LUS60067382, DIS60067384</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>Rosedale Park, Bush Road, Rosedale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Two other appellant parties (see below)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal by the applicant against the conditions of a consent granted for the construction and operation of a new North Harbour Hockey Stadium on the western portion of Rosedale Park.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The site is not identified as a site of significance to Maori. The application was notified to all iwi who have mana whenua over the subject land, and no submissions were received. The applicants AEE promises to consult with iwi to enable mana whenua to identify any need to provide a Cultural Values Assessment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation held 25 October 2017. The applicant Harbour Hockey Charitable Trust has exchanged evidence in anticipation of a hearing. <strong>Appeal resolved by agreement. Consent Order issued by Environment Court on 6 December 2017. Appeal complete.</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Attachment A

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Hughes v Auckland Council; Rakich Family Trust v Auckland Council</th>
<th>Received</th>
<th>1 August 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site address</td>
<td>Rosedale Park, Bush Road, Rosedale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>TBA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Separate appeals by submitters against the granting of consent for the construction and operation of the proposed North Harbour Hockey Stadium on the western portion of Rosedale Park. The appellants appeal the decision as a whole and seek the decline of consent or a reduction in scope and further conditions to mitigate adverse construction and operational effects.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The site is not identified as a site of significance to Maori. The application was notified to all iwi who have mana whenua over the subject land, and no submissions were received. The applicants AEE promises to consult with iwi to enable mana whenua to identify any need to provide a Cultural Values Assessment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation held 25 October 2017. The applicant Harbour Hockey Charitable Trust has exchanged evidence in anticipation of a hearing. <strong>Appeal resolved by agreement. Consent Order issued by Environment Court on 6 December 2017. Appeals complete.</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### HENDERSON-MASSEY – Local Board Area (1 APPEAL)

<table>
<thead>
<tr>
<th>Appellants</th>
<th>New Zealand Retail Property Group Limited</th>
<th>Received</th>
<th>17 August 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV–2017-AKL-000120</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>79-85 Fred Taylor Drive, Westgate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>Holy Resurrection Russian Orthodox Church (Applicant for associated land use consent); Auckland Transport</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against conditions of resource consent LUC600619881 and subdivision consent SUB60039017 requiring that the consent holder shall upgrade the frontage of the site (berm/footpath). The consent allows for a 2-lot subdivision creating a 7,000m2 site for a church.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>None.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Mediation held 4 October 2017. The appellant is considering whether to proceed to a court hearing.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### WAITAKERES RANGES - Local Board Area (1 APPEALS)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Peter William Mawhinney (as trustee of the Waitakere Forest Land Trust and successors) v Auckland Council</th>
<th>Received</th>
<th>28 February 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site address</td>
<td>131-149 Anzac Valley Road and 16 other properties or access lots</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>n/a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Section 358 appeal by the applicant against the s357 objection hearing decision by a commissioner to dismiss the s357 objection against the return of regional consent applications LUC-2012-204 &amp; LUC-2012-233 as incomplete applications</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application did not trigger any requirement for a Cultural Impact Assessment, and raised no Treaty issues.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### ALBERT-EDEN – Local Board Area (3 APPEALS)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Qambi Properties Limited v Auckland Council</th>
<th>Received</th>
<th>9 December 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site address</td>
<td>Aotea Station to North Auckland Line section of the City Rail Link</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against a decision granting regional consents for a discretionary activity</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
relating to the Aotea Station to North Auckland Line section of the City Rail Link. The appeal from Qambi Properties is specifically about the removal of a grade separated vehicle crossing at Porters Avenue, Mt Eden. The relief sought in the appeal is that the Court to make a direction that the appeal is placed on hold pending release of the decision on the Notice of Requirement amending the current designation notified on 2 February 2017 or for the resource consent to be declined.

Iwi comments
AT has undertaken a consultation process with iwi for the CRL project which will be ongoing. A Maori values assessment and cultural values assessment were undertaken as part of the original Notices of Requirements. A Mana Whenua forum commenced in 2014 and is an ongoing requirement of the designation conditions. Matters raised by iwi as part of this process related to water quality and discharges, groundwater, contaminated land, earthworks and air quality which were addressed in the officers’ reports. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA and has imposed conditions that also address the concerns of iwi.

Status
A prehearing conference was held at the Environment Court on 22 February 2017. Court to make further directions on the appeal and the related Notice of Requirement for the designation amendments. Under section 116 the Court has allowed the consents to be exercised in areas that are removed from the areas of concern to the appellant and other parties. Related Notice of Requirement appeal determined. Consent appeal since withdrawn. File closed.

<table>
<thead>
<tr>
<th>Appellant</th>
<th>View West Limited v Auckland Council</th>
<th>Received</th>
<th>29 September 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-000151</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council – R/LUC/2016/2243, LUC60114213</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>31 Esplanade Road, Mount Eden</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against a hearing commissioner’s decision to refuse resource consent for the demolition of the St James Church Hall, a Category B Historic Heritage building, located at 31 Esplanade Road, Mt Eden. The hall was constructed in the 1880’s and is currently subject to a Dangerous Building Notice which has seen it fenced off and unused for the past five years. It sits beside the Category B St James Church that has consent to be re-purposed into four residential apartments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application did not trigger any requirement for a Cultural Impact Assessment, attract submissions from Iwi or raise Treaty issues.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>Court directions received on 24 October 2017. The Court requires a response by 7 November as to whether parties agree to mediation. Mediation scheduled for Wednesday, 14th February 2018. Mediation occurred. Parties agreed a timeline for an alternative proposal to be developed that would see the building retained and re-used.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appellant</th>
<th>SAI 1 Trust v Auckland Council</th>
<th>Received</th>
<th>16 February 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2018-AKL-000011</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council – LUC60310360</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>325 Mount Albert Road, Mount Roskill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against a decision on a s357 objection to the rejection of a resource consent for processing under s88 of the RMA. The application that was rejected was for the construction of an extension</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Region-wide Appeals Register 8 March 2018
### MAUNGAKIEKIE - TAMAKI – Local Board Area (1 APPEAL)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Summertell Villages (Elserslie) Limited v Auckland Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>30 November 2017</td>
</tr>
<tr>
<td><strong>References</strong></td>
<td>ENV-2017-AKL-000180</td>
</tr>
<tr>
<td>Council – LUC60129032</td>
<td></td>
</tr>
<tr>
<td><strong>Site address</strong></td>
<td>8 Harrison Road, Mt. Wellington</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Appeal against a condition granting consent to Summertell Villages for construction of additional residential apartments for retirement living. The appeal is against condition 34 requiring enclosure of the south facing balconies. The applicant appealed this condition which was imposed by an independent hearing commissioner but not recommended by the reporting officers.</td>
</tr>
<tr>
<td><strong>Iwi comments</strong></td>
<td>The application did not trigger any requirement for a Cultural Impact Assessment, attract submissions from Iwi or raise Treaty issues.</td>
</tr>
<tr>
<td><strong>Status</strong></td>
<td>New appeal. Court directions received 7 December 2017 asking whether or not the parties are willing to attend a court-assisted mediation. Informal negotiations between the appellant and the Council have resulted in the settlement of the appeal. The parties have filed a joint memorandum and draft consent documents with the Environment Court for approval. Consent order approved by the Environment Court dated 31 January 2018. File Closed.</td>
</tr>
</tbody>
</table>

### PUKETAPAPA – Local Board Area (1 APPEAL)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Jayashree Limited v Auckland Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received</td>
<td>7 December 2017</td>
</tr>
<tr>
<td><strong>References</strong></td>
<td>ENV-2017-AKL-000181</td>
</tr>
<tr>
<td>Council – R/LUC/2016/2243, LUC60114213</td>
<td></td>
</tr>
<tr>
<td><strong>Site address</strong></td>
<td>34 White Swan Road, Mount Roskill</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Appeal against a decision on a s357 objection to the rejection of a resource consent for processing under s88 of the RMA. The application that was rejected was for the legalisation of four units on the site.</td>
</tr>
<tr>
<td><strong>Iwi comments</strong></td>
<td>As the application was not accepted for processing no assessment of Iwi issues has been undertaken. In the initial s88 check for completeness of the application no requirement for a Cultural Impact Assessment or Iwi or Treaty matters have been raised.</td>
</tr>
<tr>
<td><strong>Status</strong></td>
<td>Court directions received on 11 December 2017. The Court has joined this appeal with other existing Environment Court proceedings for this site and another site owned by the appellant (i.e. ENV-2017-AKL-000133 building consent abatement notice appeal to cease the use of the property (34 White Swan Road, Mount Roskill) as a boarding house and ENV-2017-AKL-00079 an application for a declaration regarding the use of a dwelling at 37A Hayr Road, Three Kings). A reporting date on progress has been set for 28 February 2018.</td>
</tr>
</tbody>
</table>

Region-wide Appeals Register 8 March 2018
WAITEMATA – Local Board Area (1 Appeal)

Appellant: R & P Duke

Received: 8 September 2017

References: ENV-2017-AKL-000

Council – LUC60112250 and CST60082316

Site address: 75 Sarsfield Street, Herne Bay

Applicant: R & P Duke

Description: Appeal from the applicant against condition 7 of a resource consent granted by the council relating to number of helicopter flights to and from the site, in particular from a helicopter landing area located in the General Coastal Marine zone.

Iwi comments: The application did not trigger any requirement for a Cultural Impact Assessment and raises no Treaty issues. The application was non-notified (written approvals received from immediate neighbours). The application was considered in accordance with the statutory requirements under the Resource Management Act 199, including Part 2 of the RMA.

Status: New appeal. Waiting for directions from the Environment Court. The appeal has since been withdrawn on 18 December 2017 and therefore finalised. File Closed. The resource consent is now subject to judicial review proceedings relating to the grant of consent on a non-notified basis.

WAHEKE – Local Board Area (3 APPEALS)

Appellants: 1. Walden v Auckland Council

2. SKP Incorporated v Auckland Council

Received: 9 June 2017

References: ENV-2017-AKL-000076

ENV-2017-AKL-000077


Site address: Donald Bruce Road, Kennedy Point, Waiheke Island

Applicant: Kennedy Point Boatharbour Limited

Other parties: Over 30 parties have joined the appeal under section 274 of the RMA.

Description: Two separate appeals opposing the construction, maintenance and use of a 186 berth marina within the coastal marine area adjacent to Kennedy Point. The marina includes floating attenuators for wave protection and floating pontoons for car parking, office and a public/cafeteria building. The council hearing canvassed a large range of issues and potential effects including landscape, traffic and transport, ecology.

Iwi comments: The applicant consulted with iwi, including Ngati Paoa Trust and Ngai Tai ki Tamaki Tribal Trust. A cultural values assessment was provided by Ngati Paoa and a cultural impact assessment from Ngai Tai ki Tamaki. Iwi sought to have input into conditions but no submissions were lodged by iwi. The independent hearing commissioners had regard to all the information before them and considered the application in accordance with the relevant statutory requirements and in particular Part 2 of the RMA 1991.

Status: The Environment Court has set down the appeals for a court-assisted mediation
on 4 and 7 August 2017. Mediation on 4 and 7 August 2017 has now been completed. Mediation narrowed down some issues but did not resolve all the issues for the appellants and all the section 274 parties. A timetable for exchange of evidence, caucusing of expert witnesses and Environment Court hearing date has been confirmed. All evidence and witness caucusing is complete with the hearing set for the week of 26 February 2018. Hearing commenced on Monday 26 February 2018.

<table>
<thead>
<tr>
<th>Appellants</th>
<th>Cable Bay Wines Ltd v Auckland Council</th>
<th>Received</th>
<th>2 February 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL-000010</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council – LUC60127798</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>12 Nick Johnston Drive, Waiheke Island</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Cable Bay Wines Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other parties</td>
<td>At this stage two parties have joined the appeal under section 274 of the RMA. The section 274 period ends 15 March 2018.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Cable Bay appeal Council’s decision to refuse retrospective consent relating to the unlawful establishment and use of an additional dining area known as ‘The Verandah’. The principal issues in contention relate to the scale and intensity of the activity and the general amenity / noise effects associated with the use of the structure.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application was limited-notified to neighbours. No iwi group indicated a need for a cultural impact assessment. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>New appeal. The Environment Court has directed court-assisted mediation after the expiry of the section 274 period which is 15 March 2018. Council is to file and serve a reporting memorandum by 4 May 2018</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**OTARA-PAPATOETOE – Local Board Area (1 APPEAL)**

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Lion – Beer, Spirits &amp; Wine (NZ) Limited</th>
<th>Received</th>
<th>24 July 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>References</td>
<td>ENV-2017-AKL 000106</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Council – 50566</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site address</td>
<td>79 Ormiston Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant</td>
<td>Ormiston Centre Limited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Appeal by a submitter to the grant of land use and subdivision consent to establish a mix of commercial activities including a supermarket, department store and offices. The site is zoned Business – Light industrial under the AUP-OP in which the activities are non-complying.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iwi comments</td>
<td>The application was publicly notified and there were no submissions by iwi. No iwi group indicated a need for a cultural impact assessment. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Status</td>
<td>New appeal with the parties yet to receive any directions from the Court. Negotiations continuing between appellant and consent holder. Next reporting date 13 April 2018</td>
<td></td>
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</tr>
</tbody>
</table>

*Region-wide Appeals Register 8 March 2018*
# FRANKLIN – Local Board Area (4 APPEALS)

<table>
<thead>
<tr>
<th>Appellant</th>
<th>References</th>
<th>Received</th>
</tr>
</thead>
</table>

**Site address**: Waikuku  
**Applicant**: Watercare Services Limited  
**Description**: Appeal by a submitter to the grant of regional permits to discharge wastewater into the Waikuku Estuary and Manukau Harbour. One s274 party has joined (Gary Whyborn).

**Iwi comments**: The application was publicly notified and submissions were received from Ngati Te Ata and Ngati Tamaoho Trust. Ngati Te Ata provided its full support to the Project and the applications. Ngati Tamaoho Trust asked that the application be declined but also proposed conditions should consent be granted.

**Status**: New appeal. Parties have met to discuss concerns/questions with the conditions. Court assisted mediation is also likely to occur in March/April.

<table>
<thead>
<tr>
<th>Appellant</th>
<th>References</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Giles and Third</td>
<td>ENV-2017-AKL-000118 Council – SUB60300057 (MC53131)</td>
<td>16 August 2017</td>
</tr>
</tbody>
</table>

**Site address**: 340 Clevedon Kawakawa Bay Road  
**Applicant**: Dianne Giles and Lynette Colleen Third  
**Description**: Appeal against a decision refusing consent to subdivide a rural site to create two lots. Consent refused on a non-notified basis.

**Iwi comments**: The application was non-notified. No iwi group indicated a need for a cultural impact assessment. The delegated decision maker considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA.

**Status**: Appeal on hold to allow applicant to see if reasons for refusal can be addressed. Currently exploring design options to see if policy matters can be addressed. Next court report date on 23 February 2018. *An amended proposal has been submitted by the applicant for consideration by Council as to whether it addresses the reasons for refusal. The next reporting date is 31 March.*

<table>
<thead>
<tr>
<th>Appellant</th>
<th>References</th>
<th>Received</th>
</tr>
</thead>
</table>

**Site address**: 96 Karaka Road, Beachlands  
**Applicant**: Pine Harbour Holdings Limited  
**Description**: Appeal against several conditions of the council decision to grant subdivision and landuse consent to create 27 lots and 27 dwellings.

*Region-wide Appeals Register 8 March 2018*
### Iwi comments
The application was publicly notified and there were no submissions by iwi. Ngai Tai Ki Tamaki advised during the processing of the proposal that they were happy for the development to proceed based on their longstanding relationship with the applicant. No iwi group indicated a need for a cultural impact assessment. The Hearing Commissioners considered the application in accordance with the requirements of the RMA 1991 and in particular Part 2 of the RMA.

### Status
Appeal reported to the Regulatory Committee under urgency on 1 March 2017 as the Court had directed a reporting date of 1 March 2017 to identify whether mediation is appropriate and/or agree a hearing timetable. Mediation set down and held on 19 April. Parties will be reporting back to the Court on a monthly basis. Evidence exchange has commenced with a hearing likely in the new year. **Hearing has been postponed as there is a possibility of settlement due to the imminent commencement of works on the adjacent property which would address the conditions in contention.**

### Attachment A

#### Item 13

<table>
<thead>
<tr>
<th>Appellant</th>
<th>Ahuareka Trustees (No. 2) Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference</td>
<td>ENV-2015-AKL-000147</td>
</tr>
<tr>
<td></td>
<td>Council – 42081</td>
</tr>
<tr>
<td>Site address</td>
<td>650-680 Whitford Maraetai Road, Whitford</td>
</tr>
<tr>
<td>Other parties</td>
<td>Whitford Residents and Ratepayers Association</td>
</tr>
<tr>
<td>Description</td>
<td>Appeal against Council’s decision to refuse consent to establish a hamlet of 186 households and ancillary buildings, a country pub and restaurant, retail and commercial units and carpark in the Whitford Rural B zone.</td>
</tr>
<tr>
<td>Iwi comments</td>
<td>No iwi submissions</td>
</tr>
<tr>
<td>Status</td>
<td>Appeal reported to the Committee in December 2015. Mediation held 11 February 2016. Appeal reported to the Regulatory Committee on 1 December 2016. Evidence exchange occurred in February/March 2017 although no hearing date set. Judicial teleconference held 30 March. Rebuttal evidence due 28 April with hearing possible in July. Court hearing proceeded within the week 3 July 2017, with the applicants reply to be filed in writing and subsequently the Court’s decision. Awaiting Court decision. Decision of the Court received 15 December 2017 – appeal declined. Significant policy-based decision supporting provisions of AUP (OP). Court costs being sought, otherwise appeal matters complete. <strong>The Environment Court decision since appealed by the appellant to the High Court on 26 January 2018. A case management conference is scheduled for 6 March.</strong></td>
</tr>
</tbody>
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*Region-wide Appeals Register 8 March 2018*
<table>
<thead>
<tr>
<th>#</th>
<th>Area of work</th>
<th>Reason for work</th>
<th>Regulatory Committee role (decision or direction)</th>
<th>Budget/ Funding</th>
<th>Expected timeframes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Alcohol Licensing</td>
<td>Implementation of the Local Alcohol Policy (LAP), including the provision of Local Impacts Reports</td>
<td>A decision on expenditure if it is found that more resources are required to implement the LAP</td>
<td>Not known at this stage but not currently funded</td>
<td>FY17/18:</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Q3</td>
<td>Jan - Mar: 8 Feb, 8 Mar</td>
</tr>
<tr>
<td></td>
<td>Alcohol Licensing</td>
<td>Report on the revenue received and the costs incurred for the alcohol licensing process – required by regulation 19 of the Sale and Supply of Alcohol (Fees) Regulations 2013.</td>
<td>Note that the majority of alcohol licensing costs were recovered from the existing default licensing fees regime for the twelve months to July 2017. Confirm continuance of the default licensing fees regime. Review the default licensing fees regime after a suitable period of time has elapsed following the implementation of the Local Alcohol Policy.</td>
<td>Within current baselines.</td>
<td>Q3</td>
</tr>
<tr>
<td></td>
<td>Animal Management</td>
<td>Report on Animal Management activities for the year ending June 2017 as required by s10a of the Dog Control Act 1996</td>
<td>Note that the Animal Management Annual Report is required under Section 10A of the Dog Control Act 1996 and staff will provide the 2016/17 report to the Secretary of Local Government</td>
<td>Within current baselines.</td>
<td>Q3</td>
</tr>
<tr>
<td></td>
<td>Environmental Health</td>
<td>Report on progress implementing the Food Act 2014</td>
<td>For information only</td>
<td>Within current baselines.</td>
<td>Q3</td>
</tr>
</tbody>
</table>
|    | Freedom camping                     | Explore the need for and options for regulating freedom camping in Auckland | • Note Committee decided to develop a bylaw in Aug '17 ([item 9 REG/2017/72])  
• Committee recommend statement of proposal to Governing Body (Q3 '18).  
• Committee establish the hearings panel for deliberations on submissions (Q2 '18).  
• Panel recommend final draft of bylaw to governing body for adoption (Q2 '18). | Review is within current baselines.  
Funding proposals will be required for any recommendations that require capital or operational upgrades. | Q3 | Q4 | Q1 | Q2 |
|    | Public Safety and Nuisance Bylaw review | Legislative requirement to review bylaw within 5 years. Committee resolution to “commence the review of the Public Safety and Nuisance Bylaw 2013 at an early date”. | • Note: Committee received report on bylaw review in Oct '17 ([REG/2017/84 Oct 17])  
• Note: Committee workshop (Feb '18)  
Timing on following steps: tentative as they are subject to the outcomes of the workshop.  
• Committee recommend statement of proposal to Governing Body (Q1 '18)"  
• Committee establish the hearings panel for deliberations on submissions (Q1 '18)  
• Panel recommend final draft of bylaw to governing body for adoption (Q2 '18) | Within current baselines. | Q3 | Q4 | Q1 | Q2 |

Edited 31 January 2018
### Local Alcohol Policy
The Alcohol Regulatory and Licensing Authority decision has been judicially reviewed to the High Court by industry stakeholders. The Provisional Local Alcohol Policy cannot be adopted until court proceedings are settled.

- **Note:**
  - Committee agreed to policy amendments in Sep ’17 (Item C1 REG/2017/80-85) in response to Alcohol Regulatory and Licensing Authority decision in Jul ’17.
  - Amended policy was resubmitted to authority in Oct ’17.
  - Three appeals lodged against amendments, and three judicial reviews lodged against authority’s Jul ’17 decision.
  - Appeals heard by the authority, judicial reviews heard by High Court. No dates set at this time.
- **Committee recommendation:** Depending on the outcome of the appeals and judicial reviews, the Regulatory Committee may be required to make recommendations about the policy (Q1 ’18).

- **Within current baselines.**
- **Q3**
- **Q4**
- **Q1**
- **Q2**

### Dog management Bylaw and Policy on Dogs
Legislative requirement to review the bylaw and policy after five years.

- **Committee receive** report following the completion of the bylaw review (Q4 ’17).
- Timing on below steps tentative as they are subject to the outcomes of the May decision.
- **Committee recommend** statement of proposal to Governing Body. (Q2 ’18)
- **Committee establish** the hearings panel for deliberations on submissions. (Q2 ’18)
- **Panel recommend** final draft of bylaw to governing body for adoption. (Q2 or 3 ’18)

*Public notification is required for bylaw reviews even if no change to the bylaw is recommended.*

- **Q3**
- **Q4**
- **Q1**
- **Q2**

### Health and Hygiene Bylaw

- **Committee receive** report following the completion of the bylaw review. (Q4 ’17)*

*Public notification is required for bylaw reviews even if no change to the bylaw is recommended.*

- **Q3**
- **Q4**
- **Q1**
- **Q2**

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*Edited 31 January 2018*
<table>
<thead>
<tr>
<th>Item 13</th>
<th>Regulatory Committee Summary of Information Items - 8 March 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Solid Waste Bylaw review</strong></td>
<td>Legislative requirement to review the bylaw and policy after five years.</td>
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<tr>
<td><strong>On-site Wastewater Bylaw</strong></td>
<td>Review to determine whether four area specific on-site wastewater bylaws (Rodney, North Shore, Waitakere and Papakura) should be retained, revoked or replaced with a regional bylaw.</td>
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<td><strong>Boarding Houses Inspection</strong></td>
<td>Update on the Auckland proactive boarding houses inspections programme.</td>
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<tr>
<td><strong>Gambling Venue Proactive Compliance</strong></td>
<td>To advise on efforts to improve compliance with gambling and alcohol supply regulatory obligations</td>
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<tr>
<td><strong>Resource Consents Department update</strong></td>
<td>To provide insights into the performance, opportunities and risks of the Resource Consent Department</td>
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<tr>
<td><strong>Resource Consents Appeal Update</strong></td>
<td>To provide oversight of the appeals received to resource consent decisions.</td>
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<tr>
<td><strong>Regulatory Compliance</strong></td>
<td>Report on progress implementing the Regulatory Compliance Programme</td>
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<tr>
<td><strong>Building Control</strong></td>
<td>Quarterly Update of Building control activity</td>
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<tr>
<td><strong>The Regulatory Committee Policy</strong></td>
<td>Reporting on and monitoring of Regulatory decision making</td>
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<tr>
<td><strong>The Regulatory Committee Policy</strong></td>
<td>annual review of policy</td>
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<tr>
<td><strong>The Regulatory Committee Policy</strong></td>
<td>Annual review of commissioner pool</td>
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Edited 31 January 2018
<table>
<thead>
<tr>
<th>Attachment B</th>
<th>Item 13</th>
</tr>
</thead>
</table>

## Regulatory Committee Summary of Information Items - 8 March 2018

### Item 13: COMPLETED

<table>
<thead>
<tr>
<th>The Regulatory Committee Policy</th>
<th>To provide an efficient, open and transparent framework for the decision making processes for which the Regulatory Committee is responsible.</th>
<th>Decision: adopted the Regulatory Committee Policy on 12 April 2017 REG/2017/32</th>
<th>Q4</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gambling Venue Policies review</td>
<td>Legislative requirement to review these policies every three years.</td>
<td>Decision: retain existing class 4 Pokie venue policy and NZ Racing Board (TAB) venue policy Resolution REG/2017/50</td>
<td>Q4 (Jun)</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
</tr>
<tr>
<td>Independent Commissioner review report Appointment of Duty Commissioner for the 2017-2018 term</td>
<td>The need to appoint Independent Commissioners for the 2017 to 2020 commissioner pool following shortlisting and interview processes.</td>
<td>Decision: Approval of recommended Independent Commissioners for the 2017-2020 term on 15 June 2017 REG/2017/52</td>
<td>Q4 (Jun)</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
</tr>
<tr>
<td></td>
<td>Need to provide delegation to 12 Independent Commissioners to undertake Duty Commissioner work over the coming year.</td>
<td>Decision: Approval of appointment of Duty Commissioners on 15 June 2017 REG/2017/53</td>
<td>Q4 (Jun)</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
</tr>
<tr>
<td>Appointment of District Licensing Committee chairs and members</td>
<td>Appointments of DLC chairs and members for 2017-2020</td>
<td>Decision: appointments of DLC chairs and members on 15 June 2017, Item C1 REG/2017/51</td>
<td>Q4 (Jun)</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
</tr>
<tr>
<td>Air Quality – Indoor Domestic Fires bylaw</td>
<td>Review the triennial priority work programme for regulatory compliance</td>
<td>Decision: Bylaw adopted by GB 25 May 2017, Item C1, Resolution GB/2017/49</td>
<td>Within current baselines.</td>
<td>Q4</td>
<td>Q1</td>
<td>Q2</td>
</tr>
<tr>
<td>Regulatory Compliance</td>
<td>Endorsement of priority actions</td>
<td>Report was considered on 12 Oct, resolution REG/2017/93</td>
<td>Within current baselines.</td>
<td>Q4</td>
<td>Q1</td>
<td>Q2</td>
</tr>
<tr>
<td>Smokefree bylaw investigation</td>
<td>Committee resolution to “progress the investigation of a smokefree bylaw – commence the statutory process for investigating a draft smokefree bylaw to complement the council’s smokefree policy”</td>
<td>Progress to date: The revised smokefree policy and implementation plan was adopted at the October 2017 Environment and Community Committee meeting. Resolution number ENV/2017/142</td>
<td>Within current baselines.</td>
<td>Q4</td>
<td>Q1</td>
<td>Q2</td>
</tr>
<tr>
<td>Consenting Made Easy</td>
<td>To develop and embed an integrated consenting process is customer centric, consistent, timely and efficient</td>
<td>Direction on the Consenting Made Easy project as it develops</td>
<td>Q4</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
</tr>
</tbody>
</table>

Edited 31 January 2018
Objection against a Menacing Dog Classification

File No.: CP2018/01939

Te take mō te pūrongo / Purpose of the report
1. To determine the objection by Ms Rebecca Maud of the menacing classification issued for her dog Jack.

Whakarāpopototanga matua / Executive summary
2. Section 33A of the Dog Control Act 1996 (DCA) provides that the Auckland Council may classify a dog as menacing when the Council considers that a dog poses a threat to any person, stock, poultry, domestic animal or protected wildlife because of:
   i) Any observed or reported behaviour of the dog; or
   ii) Any characteristics typically associated with the dogs breed or type.
3. Where a dog is classified as menacing, the owner of the dog must:
   a) Not allow the dog to be at large or in any public place, or in any private way, without being muzzled; and
   b) Must, if required by the territorial authority, within 1 month, produce to the territorial authority a certificate issued by a veterinarian certifying:
      i) That the dog is or has been neutered; or
      ii) That for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and
4. The Auckland Council Animal Management Team classified Jack as a menacing dog following an attack on another dog at Maddills Farm Recreational Reserve in Kohimarama.
5. Ms Maud has objected to the Council's decision and pursuant to section 33D of the DCA. The matter is now before the Committee for a decision as to whether to uphold or rescind the menacing classification of Jack.
6. In making its determination the committee must have regard to:
   a) The evidence which formed the basis for the decision to classify Jack menacing; and
   b) The matters relied on by Ms Maud in support of her objection and
   c) Any other relevant matters.
7. Auckland Council must give written notice to the owner of its decision and the reasons for its decision.
8. Staff advise the menacing classification should be upheld based on the evidence of the recent attack and prior menacing history.

Ngā tūtohunga / Recommendation/s
That the Regulatory Committee:
   a) hear and determine the objection to the menacing dog classification by Ms Maud by either:
      i) upholding the menacing classification; or
      ii) rescinding the menacing classification.
   b) note that the deliberation process will take place with the public excluded as it may prejudice the decision of the objection.
Horopaki / Context
9. At approximately 5.00pm on Sunday, 10 September 2017 Ms Maud’s dog Jack allegedly attacked another dog at Maddills Farm Recreational Reserve in Kohimarama.
10. Animal Management investigated. Statements were obtained from the complainant which detailed the attack, refer to Attachment A.
11. At approximately 6.15pm officers went to Ms Maud’s property and spoke to her about the attack, refer to Attachment B.
12. A formal statement was taken from Ms Maud on 12 September 2017, refer to Attachment C.
13. The evidence compiled upheld the allegation that Jack attacked the complainant’s dog. A decision was subsequently made in accordance with section 33A of the DCA to classify Jack as menacing. The classification was issued on 12 September 2017, refer to Attachment D.
14. The decision was also made to issue an infringement notice to Ms Maud (notice number 61000049076) under s53(1) of the DCA for failing to keep her dog under control, refer to Attachment E.
15. On 21 November 2017 Ms Maud wrote to the Auckland Council objecting to the menacing classification for her dog Jack, refer to Attachment F.
16. On 19 January 2018 Auckland Council advised Ms Maud that Council will not rescind the menacing classification and the reasons why, refer Attachment G.
17. Ms Maud formally requested a hearing on 19 January 2018 at 11.36am, refer Attachment H.
18. Jack has a history of complaints, refer Attachment J. Ms Maud was previously issued a menacing classification for Jack and an infringement notice on 2 May 2017 for failing to control her dog. The facts of that incident involved Jack attacking another dog.
19. Ms Maud asked the Council to reconsider the earlier classification and infringement, which officers did and resolved to revoke the classification and infringement. Copies of relevant documents are attached, refer Attachment I.

Tātaritanga me ngā tohutohu / Analysis and advice
20. Staff advise the menacing classification should be upheld.
21. The previous classification was rescinded on advice from the dog owner that there would be no repeat of menacing behavior. Regrettably, a further incident has occurred resulting in injury to another dog.
22. The risk to public safety and to other dogs will be eliminated if Ms Maud’s dog is muzzled in public.

Ngā whakaawaewe ā-rohe me ngā tirohanga a te poari ā-rohe / Local impacts and local board views
23. This report relates to classification of a menacing dog. The views of local boards have not been sought for this report.

Tauākī whakaawaewe Māori / Māori impact statement
24. The content of this report has no adverse effects of Māori.

Ngā ritenga ā-pūtea / Financial implications
25. There are no financial implications.

Ngā raru tūpono / Risks
26. There are no risks.
Ngā koringa ā-muri / Next steps

27. To uphold the decision held by the committee.
28. It should be noted that the deliberation of the decision will be held with the public excluded.

Ngā tāpirihanga / Attachments

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<th>No.</th>
<th>Title</th>
<th>Page</th>
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<td>Complainants statement</td>
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<td>B</td>
<td>AMO investigation statement</td>
<td>83</td>
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<tr>
<td>C</td>
<td>Ms Mauds statement (dog owner)</td>
<td>87</td>
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<td>D</td>
<td>Councils classification letter to Ms Maud</td>
<td>91</td>
</tr>
<tr>
<td>E</td>
<td>Councils infringement notice to Ms Maud</td>
<td>93</td>
</tr>
<tr>
<td>F</td>
<td>Ms Mauds objection to classification</td>
<td>97</td>
</tr>
<tr>
<td>G</td>
<td>Councils reply re Ms Mauds objection</td>
<td>101</td>
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<tr>
<td>H</td>
<td>Ms Mauds request for a Hearings</td>
<td>103</td>
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<tr>
<td>I</td>
<td>Previous menacing classifications</td>
<td>105</td>
</tr>
<tr>
<td>J</td>
<td>History of complaints</td>
<td>107</td>
</tr>
</tbody>
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Ngā kaihaina / Signatories

<table>
<thead>
<tr>
<th>Author</th>
<th>Authorisers</th>
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<tbody>
<tr>
<td>Amber Blundell - Acting Team Leader Animal Management Central-East</td>
<td>Grant Barnes - General Manager Licensing and Compliance Services</td>
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<td></td>
<td>Penny Pirrit - Director Regulatory Services</td>
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</table>
Hi Gina,

Here is my statement about what happened today. Please let me know if you need any other details.

Thanks,
Rachael

This afternoon (Sunday) around 4.30pm, my daughter and I were walking our 4.5 month old puppy around Madills Farm. He was on a leash.

A Jack Russell (off leash) ran up behind our puppy and started attacking him. He got him on his back and was biting him. My dog has a puncture wound on his left front leg and another smaller cut on his right front leg. My dog did nothing to defend himself.

The dogs owner helped to separate the dogs and I asked for her number so I could send any vet bills to her. She told me her dog doesn't bite and after examining my dog, I asked her if he doesn't bite, why does my dog have bite marks.

She also told me that her dog had been beaten up before she got him and that he had attacked other dogs before. I asked her why he wasn't on a leash if he was known to have attacked before and she said he just doesn't like puppies. She then called me 'one of those people' and walked away with her dog.

I asked another lady in the park if the Jack Russell had been ok walking past her dog and she said that the woman and dog are known at the park, and that he's attacked other dogs in the past.

I think this covers everything.

Thanks for keeping me posted on what happens.

I'll send through photos separately.

Regards,
Rachael

Sent from my iPhone
ANIMAL MANAGEMENT – PROSECUTION FILE

COMPLAINANT

Tick all that apply:

☐ Statement & Declaration
☐ Photos
☐ Injury information sheet
☐ Consent to access medical / veterinary records
☐ Medical bills / reports
☐ Complainant’s dog details
☐ Veterinary bills / reports
☐ Victim impact statement
☐ Correspondence
Hi Gina,

Here is my statement about what happened today. Please let me know if you need any other details.

Thanks,
Rachael

Date of birth: 
Address: 

This afternoon (Sunday) around 4.30pm, my daughter and I were walking our 4.5 month old puppy around Madills Farm. He was on a leash.

A Jack Russell (off leash) ran up behind our puppy and started attacking him. He got him on his back and was biting him. My dog has a puncture wound on his left front leg and another smaller cut on his right front leg. My dog did nothing to defend himself.

The dogs owner helped to separate the dogs and I asked for her number so I could send any vet bills to her. She told me her dog doesn't bite and after examining my dog, I asked her if he doesn't bite, why does my dog have bite marks.

She also told me that her dog had been beaten up before she got him and that he had attacked other dogs before. I asked her why he wasn't on a leash if he was known to have attacked before and she said he just doesn't like puppies. She then called me 'one of those people' and walked away with her dog.

I asked another lady in the park if the Jack Russell had been ok walking past her dog and she said that the woman and dog are known at the park, and that he's attacked other dogs in the past.

I think this covers everything.

Regards,
Rachael
ANIMAL MANAGEMENT – PROSECUTION FILE

COMPLAINANT

Print Name: Haakon Fells

Signature: Haakon Fells

Date: 20/12/17

Name of parent / guardian:

(where complainant is less than 16 years old)

Signature of parent / guardian:

(where complainant is less than 16 years old)

Animal management officer 145

Monica
Tick all that apply:

☑ AMO Statement and Declaration
☐ Case Notes
☐ GeoOp Printouts
☐ Other:
ANIMAL MANAGEMENT OFFICER STATEMENT

My name Gina Louise Woolston. I employed by Animal Management as an Animal Management Officer. On the 10th of September 2017 at 18:15 hours I attended [redacted] Street, St Heliers with Animal Management Officer Phillip AMOS to investigate a dog attack complaint. We knocked on the front door and the dog owner who I now know to be Rebecca MAUD answered the front door. Officer AMOS introduced us and explained why we were at the property. MAUD replied by stating "Yeah I know why you’re here, I’ve already emailed Christo about it." We asked her to explain to us what had happened and she stated "I went to the park and my dog jumped out of my car and ran over to the little dog. The little dog jumped up at my dogs face and he didn't like it so he reacted by biting it. It was only a scratch, nothing serious. We advised MAUD that her dog was not showing up as being registered. MAUD replied by stating they were in the process of getting the money together to pay it. Officer AMOS explained that due to the complaint, past history and the dog not being registered we would have to impound the dog. I made a phone call to Team Leader Christo VAN DER MERWE to confirm this and he agreed the dog needed to be uplifted. MAUD then started to become visibly upset and was yelling for her father. Her father then came down from the second floor of the dwelling. We introduced ourselves to him and explained the reason for our visit and that we need to impound the dog “Jack” He stated that was stupid and it was the other dog who attacked first. Officer AMOS asked him if he was present at the time of the attack and he stated he wasn’t. AMOS then asked him how he knew the other dog attacked first he stated this is what MAUD had told him. We informed him that the dog was not showing up as registered and the dog’s history we would have to impound the dog and explained the process of applying for the dog to return to the property. He advised that the dog is registered and that our records were wrong. He stated that he paid for the registration online a couple of weeks earlier. Officer AMOS asked if he could produce a receipt and he stated he would need time to look through his bank records. Officer AMOS asked how much he paid but he stated he could not remember. He then asked to speak to Team Leader Christo VAN DER MERWE. I made a phone call to Team Leader VAN DER MERWE and explained the situation to him. He advised me to leave the dog on the property in good faith that the dog is registered and we would re check the system tomorrow. Officer AMOS informed both MAUD and her father that the dog could remain on the property but the dog must not leave the property while we carried out our investigation. MAUD was not with this and stated that all other attacks involving her dog council had cleared her all wrong doings and we were always on her side. We then explained that we would be in touch with her tomorrow to arrange a time to come and take a statement from her. This ended our visit. The following day Officer AMOS received various texts from MAUD. Officer Manly LIU obtained a statement from MAUD Officer Monica GUZZO obtained a signed statement from the complainant.

Signature: [Signature]

Version 3 | Nov-15
DECLARATION

This statement is true to the best of my knowledge and belief. I have made the statement knowing that it may be used in court proceedings and that I could be prosecuted for perjury for making a statement known by me to be false and intended by me to mislead.

AMO Name: [Signature]  AMO Number: 226
AMO Signature: [Signature]  Date & Time: 15/02/18 09:55
ANIMAL MANAGEMENT – PROSECUTION FILE

DOG OWNER

DOG OWNER DETAILS

Title: Mr.
Name: Rebecca Maud
Address: [redacted]
Home Phone: [redacted]
Mobile Phone: [redacted]
Email: [redacted]
Place of work: Dog Guru

Date of Birth: [redacted]

DOG OWNER STATEMENT

CAUTION

[Pursuant to the Chief Justice Practice Note dated 16 July 2007 and section 30 of the Evidence Act 2006]

I have been advised of the following:

i. I have the right to refrain from making a statement and to remain silent;

ii. I have the right to consult and instruct a lawyer without delay and in private before deciding whether to answer questions;

iii. That anything I say will be recorded and may be used as evidence.

I understand the Caution and my rights and [AM / AM NOT [DELETE ONE] prepared to make a statement.

KUM ML.

On the 10th of September 2017 at approximately 16:30pm I arrived at the Madills Farm Reserve and parked on the side of the road at Beddley Avenue. I let my dog, Jack out and didn’t see the other dog coming while Jack was peeing on the side of a tree about 3 meters away. A woman and her daughter were walking their black and white dog mix towards us. Jack thought their dog was another dog he knows so they look exactly the
Hi, had a sniff, and I saw that he wasn't happy, so I called him back. Jack looked at me and was about to come back. But the puppy (corgi mix) was excited and was pulling on its lead and was playing on Jack playfully. The puppy bit Jack's head, Jack wasn't happy and jumped on top of the other dog and growled and scratched the puppy on the front, but I didn't know if it was from his claw or teeth. The mother was pulling the puppy back, while I pulled Jack back by the collar and put him on a lead and walked the other way. I spoke with the mother and she wanted me to pay for the vet bill. I gave her my contact details and I told her I would call Animal Management. I then emailed Christel from Animal Management straight away regarding the incident. The mother hasn't contacted me since the incident.
ANIMAL MANAGEMENT – PROSECUTION FILE

DOG OWNER

<table>
<thead>
<tr>
<th>DOG DETAILS: DOG 1</th>
<th></th>
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<tbody>
<tr>
<td>Name:</td>
<td>Jack</td>
<td></td>
</tr>
<tr>
<td>Breed:</td>
<td>Jack Russell</td>
<td></td>
</tr>
<tr>
<td>Colour:</td>
<td>White &amp; Tan</td>
<td></td>
</tr>
<tr>
<td>Gender:</td>
<td>Male</td>
<td></td>
</tr>
<tr>
<td>Age:</td>
<td>6 Years 9 Months</td>
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<tr>
<td>Registration:</td>
<td>Yes</td>
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<td>Notes:</td>
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<td>Dog ID:</td>
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<tr>
<td>Notes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dog ID:</td>
<td></td>
<td></td>
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</tbody>
</table>

DECLARATION

I have read this statement and it is true and correct.

OR

I have had this statement read back to me by [Signature] and it is true and correct.

Print Name: [Signature]  Date: 21/09/17

Statement recorded at: [Address]

AMO Name: [Signature]  AMO Number: 140

AMO Signature: [Signature]  Date & Time: 08:16am
12th September 2017

Rebecca Maud
Street
Saint Heliers
Auckland 1071

Dear Rebecca,

Notice of Classification of a Menacing Dog – Section 33A, Dog Control Act 1996

<table>
<thead>
<tr>
<th>Dog ID:</th>
<th>400907010453</th>
<th>Primary Breed:</th>
<th>Jack Russell Cross</th>
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<tbody>
<tr>
<td>Microchip No:</td>
<td>941000013710638</td>
<td>Secondary Breed:</td>
<td>Unknown</td>
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<tr>
<td>Name:</td>
<td>Jack</td>
<td>Primary Colour:</td>
<td>White</td>
</tr>
<tr>
<td>Sex:</td>
<td>Male neutered</td>
<td>Secondary Colour:</td>
<td>Tan</td>
</tr>
<tr>
<td>Age:</td>
<td>6 years 9 months</td>
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</table>

Address where dog is usually kept: [redacted] Street, Saint Heliers

This is to notify you\(^1\) that the above mentioned dog has been classified as a menacing dog under section 33A of the Dog Control Act 1996.

This is because Auckland Council considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of observed or reported behaviour of the dog, namely:

On the 10th of September 2017, your dog, Jack, attacked another dog at the Madills Farm Recreational Reserve.

I hereby notify you that the dog described herein has been classified as a MENACING DOG with effect from the date of issue of this notice.

A summary of this classification and your right to object is provided on the reverse.

Please note:
- We have records of your dog being desexed.
- We have records of your dog being microchipped.
- Your dog must now be muzzled when it is at large or in any public place or private way.
- Your dog must be kept under control at all times.

Documents requested above can be sent to:
Animal Management

\(^1\) For the purposes of the Dog Control Act 1996, you are the owner of a dog if:
- You own the dog; or
- You have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- You are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.
Auckland Council
Private Bag 92300
Auckland 1142

Alternatively you can drop the documents into any customer service centre or scan and email to SAS@aucklandcouncil.govt.nz

Yours sincerely

[Signature]

Christo Van Der Merwe
Team Leader Animal Management
1 October 2017

Rebecca Maud
St Heliers
Auckland 1071

Dear Rebecca Maud

Breach of Section 53(1) of the Dog Control Act 1996 – ROAD Baddeley Avenue Kohimarama
Auckland 1071
Animal Management Notice 61000049076

Enclosed is an Animal Management Infringement Notice issued to you in respect of an offence against
Section 53(1) Failure to keep dog under control; issued in terms of Section 66 of the Dog Control Act 1996;
that occurred on 10 September 2017 at 16:30:00.

An infringement notice for $ 200.00 is enclosed with this letter which is payable to council within 28 days
of the service of this notice. Information regarding your rights in respect of the Animal Management
Infringement notice may be found in the Summary of Rights on the reverse side of the notice.

If you have any queries regarding this matter; please contact the council in writing immediately, for the
attention of the undersigned and quoting the notice reference number 61000049076.

Yours faithfully

Team Leader Animal Management
Auckland Council
INFRINGEMENT NOTICE

(Issued under the authority of section 66 of the Dog Control Act 1996)

Notice No.: 61000049076 Issue Date: 1 October 2017

Enforcement Authority: Auckland Council
Enforcement Officer Identification: 226

TO: Rebecca Maud
[Redacted] Street
St Heliers
Auckland 1071

Date of birth: [Redacted]

You are alleged to have committed an infringement offence against the Dog Control Act 1996, as follows:

DETAILS OF ALLEGED INFRINGEMENT

Section contravened: The offence is one against Section 53(1) of the Dog Control Act 1996.
Nature of infringement: Section 53(1) Failure to keep dog under control
Animal Reference: 40000710453
Dog Tag Number: 576166

Location: ROAD Baddeley Avenue Kohimarama Auckland 1071
Date: 10 September 2017 Approximate time: 16:30:00

The fee for this infringement is $200.00
This fee is payable within 28 days after the infringement issue date of 1 October 2017

IMPORTANT: PLEASE READ SUMMARY OF RIGHTS PRINTED OVERLEAF

Remittance Advice

You can pay online, at any Council Service Centre or by Internet banking (see below). You can pay at any Council Service Centre. Payments can be made by Cash, EFT-POS, Credit Card, or Cheque. Please make Cheques payable to Auckland Council. This remittance advice must accompany all payments.

For full details on payment options visit aucklandcouncil.govt.nz or call (09) 301 0101.

<table>
<thead>
<tr>
<th>Internet Banking / Bill Payment</th>
<th>Payee name</th>
<th>Payee account number</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Redacted]</td>
<td>AUCKLAND COUNC</td>
<td>12-3113-0131289-00</td>
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<table>
<thead>
<tr>
<th>Details to appear on payee statement</th>
<th>Code</th>
<th>Reference</th>
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</thead>
<tbody>
<tr>
<td>Particulars</td>
<td>Maud Rebecca</td>
<td>61000049076</td>
</tr>
</tbody>
</table>

SUMMARY OF RIGHTS

Note: If you do not understand the summary of rights, you should consult a lawyer immediately.

Payment
1. If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you in respect of this infringement offence. Payments should be made to the enforcement authority at the address shown on the front of this notice.

Notes: If, under section 2(3A) or 2(3)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time to pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 3 and 4 below do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Further Action
2. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to the enforcement authority at the address shown on the front of this notice within 28 days after the service of this notice.

3. If you deny liability and wish to request a hearing in the District Court in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a Court hearing in respect of the offence. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court.

Note: If the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.

4. If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or otherwise, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a hearing in the District Court on the question of penalty. You will be advised of a place and time of hearing.

Note: Costs will be imposed in addition to any penalty.

Nonpayment of Fee
5. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).

6. If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay costs in addition to the infringement fee (unless the enforcement authority decides not to commence court proceedings against you).

Defence
7. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the enforcement authority at the address shown on the front page of this notice within 28 days after the date of service of this notice on you. Late payment or payment made to any other address will not constitute a defence to proceedings in respect of the alleged offence.

8. (1) This paragraph describes a defence additional to the one described in paragraph 7. This defence is available if you are charged with an infringement offence against any of the Dog Control Act 1996.

(2) You must prove either of the following to have the defence:

(a) that—

(i) the action or event to which the infringement notice relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property, or avoiding an actual or likely adverse effect on the environment; and

(ii) your conduct was reasonable in the circumstances; and

(iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or

(b) that—

(i) the action or event to which the infringement notice relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and

(ii) you could not reasonably have foreseen or provided against the action or event; and

(iii) you adequately mitigated or remedied the effects of the action or event after it occurred.

Subparagraph (2) does not apply unless—

(a) you deliver a written notice to the enforcement agency; and

(b) in the notice, you—

(i) state that you intend to rely on subparagraph (2)(a) or (b); and

(ii) specify the facts that support your reliance on subparagraph (2)(a) or (b); and

(c) you deliver the notice—

(i) within 7 days after you receive the infringement notice; or

(ii) within a longer period allowed by a District Court.

(4) If you do not comply with subparagraph (3), you may ask the District Court to give you leave to rely on subparagraph (3)(a) or (b).

8A. (1) This paragraph describes a defence additional to those described in paragraphs 7 and 6. This defence is available if—

(a) you are—

(i) a principal; or

(ii) an employer; or

(iii) an agent; or

(iv) an employee; or

(v) the owner of a ship; and

(vi) you may be liable for an offence alleged to have been committed by—

(a) your agent; or

(b) your employee; or

(c) the person in charge of your ship.

(2) If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:

(a) that—

(i) you did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and

(ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or

(b) that you took all reasonable steps to—

(i) prevent the commission of the offence; and

(ii) remedy any effects of the act or omission giving rise to the offence.

(3) If you are a body corporate, you must prove either of the following to have the defence:

(a) that—

(i) neither the directors nor any person concerned in the management of the body corporate knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and

(ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or

(b) that you took all reasonable steps to—

(i) prevent the commission of the offence; and

(ii) remedy any effects of the act or omission giving rise to the offence.

Queries/Correspondence
9. When writing or making payment of an infringement fee, please indicate—

(a) the date of the infringement offence; AND

(b) the infringement notice number; AND

(c) the identifying number of each alleged offence and the course of action you are taking in respect of it (this notice sets out more than 1 offence and you are not paying all the infringement fees for all the alleged offences); AND

(d) Your full address for replies (if you are not paying all the infringement fees for all the alleged offences).


NOTE: ALL PAYMENTS, ALL QUERIES, AND ALL CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE ENFORCEMENT AUTHORITY AT THE ADDRESS SHOW
To Whom It May Concern,
I rescued Jack 4 years ago from a terrible situation. According to the woman I got Jack off, he was wandering the streets of Hamilton on and off for 4 years and as a result he kept ending up in the pound. Eventually his family gave up looking for him and this woman decided she would keep him. He stayed locked up in the pound for 16 weeks. This woman then moved up to Auckland to manage a dog kennel. She brought Jack up and kept him locked up in the kennels for 8 weeks until I came to work for them and mentioned I wanted my next dog to be a Jack Russell. She introduced me to Jack and the way he looked at me told me he needed to get out of there. So I adopted him. She had over 20 weeks to socialise him but instead She revealed to me that she was going to have him put down because he was so dog aggressive. It’s not that he’s aggressive. It’s that he spent the first 4 years of his life wandering the streets of Hamilton. We will never know what his family did to him that caused him to run away regularly.

When I worked at these kennels we were encouraged to use a stick on the dogs if play was getting too enthusiastic. I knew Jack had been put out with other dogs at some stage because one of our first weeks together he stopped running along the beach chasing the waves or chasing his ball. Instead he would just sit and not move. I took him to a specialist who X-Rayed his spine and it was discovered he had intervertebral disc disease. I was told this was common in dogs that had been rescued from a background of beatings. Was this because of the way he was treated by the woman at the kennels or his previous family? We won’t ever know.

I took him to a vet for a long-term treatment plan. It was at this point the vet told me that Jacks’ spinal condition was the possible root cause of his severe bowel and liver disease as the location of the bone spur on the vertebrae was compressing the nerves that connect to the gut and liver.

During the first month Jack was living with me he began throwing up and pooping blood in large quantities. We had him examined and ran every possible test and he was diagnosed with severe inflammatory bowel disease which has caused secondary liver disease. The woman I got him off would have noticed these symptoms in his kennel. I was told by a vet that his symptoms may not have been as severe as they were if she had had him diagnosed earlier.

Why am I telling you all this? Jack is a very sensitive dog. He never got the chance to be socialized and he’s come from a background where he’s never had any certainties. He’s had to fend for himself and he has never been taught how to socialise with other dogs. As a dog trainer, I have picked up on Jacks stressors and have now trained him to the point where he can happily walk past another dog without showing stress signals of lip licking, increased gait speed, tail down and ears back. Jack is happy to have a sniff of another dog and come away the moment I call him, within 20 seconds of the “meeting” When he came home with me I knew that we had a long road ahead of us. does his history play a part in his behaviours today? I believe they do.
Canine socialisation is so extremely important for a dog from a young age. When Jack came home with me I took him down to the dog park the first opportunity I got. We met the ladies I have walked with for years. My last dog was part of that pack and I knew Jack was going to love them, and he did right from the start. He also met retrievers, retro doodles, Labradors and griffon mixes. All of whom are his very best friends to this day.

This is because dogs make their very good friends in their first 12 months. Jack’s first 12 months just happened to come 4 years later than it normally should. It is also because he saw a stable environment with me and felt it was safe to make these friends.

However, Jack does have issues with dogs:

- charging at him
- Jumping on him
- Asserting dominance
- Lingering in his face for too long

I believe these are extremely common dislikes for any dog and I firmly believe it all comes down to park/beach etiquette

You see a lot of dog handlers and owners do not know how to read canine body language and this is when play has the potential to escalate.

Dog parks are one of those places that seem like a brilliant idea — and would be, if we all knew how to behave. But we don’t.

Dog parks are a supplement to a dog’s daily activity, not the sole source of exercise or socialization. A dog that has been inside or alone for hours has pent-up energy, and bringing it into an extremely stimulating environment such as a park with other dogs is like holding a match really close to a stick of dynamite and hoping the fuse doesn’t catch fire. Your dog might mean well but be overly exuberant with a dog that doesn’t appreciate it (resulting in a fight). Or, your dog might mean well but be so excited about running around that other dogs start to chase him, and he suddenly turns into the prey object for other dogs (resulting in a fight). See where I’m going with this? Well-behaved dogs are exercised dogs.

How dogs meet is also extremely important

We’ve all experienced it: meeting a person who stands way too close when we don’t even know them. Meeting someone who is loud and tells obnoxious jokes within the first 30 seconds of an introduction. Meeting someone who shakes your hand for too long until it’s kind of creepy and awkward. We glare at them, chalk them up to being rude, and count the seconds until we can escape.

It’s like this for dogs too. Introductions are important and make a difference in how dogs will get along. Someone allowing their dog to go charging up to a dog that has just entered the park is rude. Jack is inevitably already on edge, examining his environment and level of safety, so that dog running full speed to Jack, who it has never met, could be asking for an instant argument. Allowing their dog to mount another dog in a dominance display is also rude. Allowing their dog to continue sniffing another dog that is clearly uncomfortable with being sniffed is, again, rude.

It’s up to us humans to help dogs make polite introductions to each other. Knowing what’s polite in the dog world and what isn’t, and knowing how to help your dog be a polite pooch is essential to having positive experiences at a dog park.
I have noticed a lot of owners’ lack recall skills. I have had several dogs rush at or charge at Jack and the owners yell out to me “I’m sorry my dog has no recall.”

Recall is about more than having your dog come when called. It’s also about having a dog that is constantly attuned to you and ready to obey no matter what, even in the midst of a game of chase. Recall is about being able to disengage your dog from an activity that is escalating and having her return to you until tempers calm down. Recall skills are important not just for your dog’s safety, but for the safety of every dog they are interacting with. No recall skills, no dog park.

It’s never cute when your dog is bouncing all over another dog. Learn when play gestures are cute and engaging — and socially appropriate to dogs — and when they’re just flat out obnoxious and rude. A play bow from a little distance away is cute. A tag-and-run request for play is cute. But constantly nipping at another dog’s neck and pouncing on him to try to get a game of wrestle going is obnoxious. Especially when the dog on the receiving end isn’t comfortable with it. If your dog is getting too rough or rude with a dog that is not liking it, it’s time to call your dog over and have her leave that dog alone. If you don’t, you’re asking for an argument between the dogs, or getting yelled at by the owner of the poor dog being bullied.

This is the number one situation Jack hates. I call him away and he wants to come but the other dog is all over him will not leave him alone, and this is when Jack gets really annoyed.

Watching a dog at a dog park is so important to help avoid arguments and to keep your dog safe. I always watch Jack and he gets into arguments because other dog owners are not paying attention to the behaviours their dogs are offering. They are inevitably talking, and not watching.

A person’s number one priority at a dog park is a dog, not conversation with other humans. Think of it like taking children to a playground, putting them on the jungle gym with other kids, and then turning your back on them to chat with other parents. That’s frowned upon, right? You have no idea if arguing is breaking out, if someone is throwing sand, or if a kid is about to take a 10-foot plunge from the monkey bars. Same with dogs. Too many people feel they can let loose their dog loose in a dog park and then just have a nice chat with other dog owners. But if you’re busy chatting, you’re not watching. Dog parks are for dogs; coffee shops are for catching up.

People are often on their phones. Thinking, “oh I am at a dog park, the dog will play, and I can catch up on emails or Facebook etc”

In the same way that chatting with other humans should not take priority over supervising dogs, a smartphone should not become a distraction either. Sadly, I’ve seen people enter the dog park and stare at their phones the whole time while their dog is wreaking havoc in the park or, even more sad, the dog just stands there staring at the cell phone-absorbed human, wondering if they’re ever going to play. Dogs know when you’re mentally disengaged and they can often take advantage of that — breaking rules because they know they can. Don’t make other dog owners have to manage your dog for you because you’re texting or tweeting or posting a picture of your cute dog to Instagram. Think of it like texting and driving: it can wait.

So, am I excusing Jacks’ behaviours?
No. I am not. But I know that they were not impulse actions. I know they were provoked. Jack shows me his annoyance by turning his head away from other dogs, showing the whites of his eyes and lowering his tail. This is supposed to tell the other dog “I am not interested, please leave me alone.” But the other usually persists.

Jack is a beautiful dog. Who loves his ball and chasing the waves. Forcing him to wear a muzzle and
classifying him as menacing because he’s reacted to negative behaviours from other dogs is not fair. He has never started an argument that wasn’t warranted. He has NEVER drawn blood. He’s a sweet boy who had a really rough start in life and I am doing everything in my power to make sure is next 10 years are the happiest they can be.

I trust this letter will help you make the right decision

Best Regards,

Rebecca Maud
19 January 2018
Rebecca Maud
Street
St Heliers 1071

Dear Rebecca


Thank you for letter dated 22/11/17. I have noted your objection and I have reviewed your application to have the menacing classification issued under Section 33A of the Dog Control Act 1996 withdrawn.

I have taken into account the content of your objection and I have also taken into account the history in our system of your dog Jack.

I have noted that there have been at least 5 aggression related incidents in the past. These incidents have been reported on the 22 May 2015, 19 October 2016, 17 March 2017, 3 April 2017 and 10 September 2017. All incidents reported to Council occurred in public places. In all these incidents Jack attacked or displayed aggressive behaviour towards other dogs.

We have issued a menacing classification on 12/05/17. This was rescinded on 22/05/17. However as dated above we then received a further complaint which resulted in the second menacing classification being issued.

I would like to draw your attention to the menacing classification and the effects thereof as mentioned in the menacing classification. I urge you to comply with the menacing classification.

Taken everything into account I have decided not to rescind the second menacing classification in the interest of public safety.

If you wish to continue with a formal hearing please contact me on amber.blundell@aucklandcouncil.govt.nz within 7 days from date of this letter where after I will arrange a hearing with the Regulatory Hearings Committee. If I do not hear from you I will close this file.

Amber Blundell
Team Leader Animal Management
Ok now you have to put the file together and do a summary of the history chronologically, add all the evidence, the current case – plus copies of the menacing’s, all communication. 
And you have to do a summary and a recommendation address to the managers.

We need to send it to Nikki to approve plus to Grant and Penny Pritt. 
If we do not have a document for the managers we can design one - let’s discuss on Wednesday.

Naku noa na | Regards
Denise Pieters | Principal Specialist Animal Management 
Licensing and Regulatory Compliance 
Mobile [redacted]
Auckland Council, Level 1 West, 35 Graham Street, Auckland 
Visit our website: www.aucklandcouncil.govt.nz
Keeping Dogs a Positive Part of Auckland

From: Amber Blundell 
Sent: Friday, 19 January 2018 11:43 a.m. 
To: Vivian-Lee Rewi 
Cc: Denise Pieters 
Subject: FW: Menacing objection for Jack

Hello,

I have sent a letter to the dog owner Rebecca Maud advising her we will not be rescinding the menacing. Please see her response.

Kind regards,

Amber Blundell

Team Leader – Animal Management Central 
Licensing & Regulatory Compliance 

Ph 09 301 0101 
8 Sharkey Street, Manukau 
Visit our website: www.aucklandcouncil.govt.nz

From: Rebecca Maud [redacted] 
Sent: Friday, 19 January 2018 11:36 AM 
To: Amber Blundell <Amber.Blundell@aucklandcouncil.govt.nz>
Subject: Re: Menacing objection for Jack

Hi Amber
That all looks fine
Please go ahead with the booking of the hearing
Thanks So much

On Friday, January 19, 2018, Amber Blundell <Amber.Blundell@aucklandcouncil.govt.nz> wrote:

Hello Rebecca,

Please see my attached response to your menacing objection.

Kind regards,

Amber Blundell

Team Leader – Animal Management Central
Licensing & Regulatory Compliance

Ph 09 301 0101
8 Sharkey Street, Manukau

Visit our website: www.aucklandcouncil.govt.nz

CAUTION: This email message and any attachments contain information that may be confidential and may be LEGALLY PRIVILEGED. If you are not the intended recipient, any use, disclosure or copying of this message or attachments is strictly prohibited. If you have received this email
Hi Rebecca

Further to our recent telephone conversation, this e-mail confirms that I have accepted your objection to the menacing classification placed on your dog Jack, and I have removed the classification. Your dog is not classified as menacing anymore and do not need to be muzzled when in a public place.

I have also cancelled infringement notice D98097.

If you have any further queries, please let me know.

Kind regards

Christo van der Merwe
Team Leader - Animal Management Central-East

Ph 09 301 0101
8 Sharkey Street, Manukau
Visit our website: www.aucklandcouncil.govt.nz
02 May 2017
Rebecca Maud
St Heliers
Dear Rebecca

Notice of Classification of a Menacing Dog – Section 33A, Dog Control Act 1996

<table>
<thead>
<tr>
<th>Dog ID:</th>
<th>156603-3</th>
<th>Primary Breed:</th>
<th>Jack Russell Terrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microchip No:</td>
<td>941000013710638</td>
<td>Secondary Breed:</td>
<td>Cross</td>
</tr>
<tr>
<td>Name:</td>
<td>Jack</td>
<td>Primary Colour:</td>
<td>White</td>
</tr>
<tr>
<td>Sex:</td>
<td>Desexed male</td>
<td>Secondary Colour:</td>
<td>Tan</td>
</tr>
<tr>
<td>Age:</td>
<td>6 years 5 months</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Address where dog is usually kept: [Redacted] Street, St Heliers

This is to notify you¹ that the above mentioned dog has been classified as a menacing dog under section 33A of the Dog Control Act 1996.

This is because Auckland Council considers that the dog may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of observed or reported behaviour of the dog, namely:

Your dog attacking another dog in a public park resulting in injury.

I hereby notify you that the dog described herein has been classified as a MENACING DOG with effect from the date of issue of this notice.

A summary of this classification and your right to object is provided on the reverse.

Please note:
- We now have proof that your dog is desexed therefore, no further evidence is required
- We now have proof that your dog is microchipped therefore, no further evidence is required
- Your dog must now be muzzled when it is at large or in any public place or private way
- Your dog must be kept under control at all times

¹ For the purposes of the Dog Control Act 1996, you are the owner of a dog if:
- You own the dog; or
- You have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- You are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.
Dog attack on animals
Job #1876421
Order No. CE
Status: Dispatcher Only

<table>
<thead>
<tr>
<th>Customer:</th>
<th>Job Location:</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unknown</td>
<td>Onehunga Street</td>
<td>Amber Blundell</td>
</tr>
</tbody>
</table>

28203

SR# 1876421. 3-April-2017 - 16:11:59. **OVER 24HSR AGO**. Happened - 6:30pm of the Auckland Canine Agility Club on Friday March 3rd, 2017. Comp's dog was attacked at this location by another dog (Jack russ). Comp was able to obtain offending DOs contact details also. **Please see notes for full incident/complaint and photos**.

**Notes**

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
</table>
| 03-04-2017 | Email received 26.03.2017  
20:15       | Please note, photos sent to AMDispatch email address  
I want to report an incident with a dog at Waikaraka Park during the agility training session at 6:30pm of the Auckland Canine Agility Club on Friday March 3rd, 2017.  
My dog got bitten by a Jack Russell Terrier that is owned by Rebecca Maud (contact details: [redacted] / mobile [redacted]). The dog was sitting at the entrance of the field and as we were passing by it barked and bit my dog causing an open wound that had to be treated by the veterinary.  
The owner mentioned her dog has "issues" and accepted to pay the veterinary bill. We met her again two weeks after this incident (because our dog was in house rest) and brought her the bill but she has refused to take responsibility.  
I am raising up this complain because she is not acting as a responsible dog owner.  
We also raised a complain with the Agility Club they've taken the necessary mesures to prevent this of happening again.  
19 Sep 2017: Auckland Council  
Job #1876421 |
Please see attached evidence related to the incident.

03-04-2017  1
20:17

03-04-2017  2
20:17

03-04-2017  3
20:18

06-04-2017  16:56
Spoke to comp about incident on phone. She advised she does not know where the owner lives but she is part of the agility club. Comp advised is willing to make a statement and would be available Saturday. I advised I would call her then to organize a time that suits her. Comp also advised that she was just going to let the owner pay the vet bill and sort it out between themselves however when she gave the bill to the owner she had a bad attitude and did not want to cooperate.

08-04-2017  20:34
Called comp this afternoon 1613hrs and asked if she would be available tonight to do a statement over the phone so I can type it up then have her sign it. Comp advised would be available. Ended up getting a P1 for south and ran out of time to do statement this evening. Called comp back at 2030hrs and advised will call her tomorrow to do statement. Comp asked about our process with dog attacks. I explained process to her.

16:03    941000013710638 // 16-245029 // ID:156603 // 1x dog attack March 2017
DO:Rebecca Maud // [REDACTED] // ID:1287135 //
DOB:[REDACTED] // [REDACTED] Street

09-04-2017  Called comp for statement. No answer left voicemail asking her to call me
19:01

10-04-2017  Called comp for statement she advised I can see her tomorrow at work at the mercy hospital on mountain Rd Mt eden. Advised would call when on my way
19:51

12-04-2017  Statement taken from owner. Dog not impounded due to nature of incident as per 179.
15:35

19 Sep 2017: Auckland Council  Job #1876421
14-04-2017  Photo taken of scene at waikaraka park  
17:36

21-04-2017  Preliminary file handed into 154  
07:48

02-05-2017  02/05/17 15.34 153 - Menacing and S53 as per SAMO 154.  
15:34

02-05-2017  02/05/17 17.58 153 - INFN sent #D98097. Update letters sent and  
17:58  menacing created.  

   Dog reference #156603-3.  

   PLEASE CLOSE

02-05-2017  file  
18:27

13-05-2017  Job closed and updated  
03:54

19 Sep 2017: Auckland Council

Job #1876421
Dog attack on animals
Job #1869494
Order No. CE
Status: Dispatcher Only

Customer: [Redacted] Crescent Meadowbank Auckland 1072

Job Location: [Redacted] Avenue Kohimarama Auckland 1071

Assigned to: Amber Blundell

17-Mar-2017 11:50:17 - Over 24 hours on Thursday 2nd March 2017 @ 9:30AM at Madills Farm reserve, the customers dog was attacked by a wire haired dog, the D/O stopped her dog and carried it to the car by the scruff of the neck. The D/O returned and blamed the customers dog and continued to say that her dog has a sore back. Customer has since discovered that the dog has done this before. Offending dog owner is Rebecca Maud DR#156603-3 Jack Russell White Tan MDSX 941000013710638 6Y 3M 16/17 245029. D/O ID 1287135 Dob [Redacted] Street St Hellers. History dog attack 19/10/16 AMO 226 D/O infn.

Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>18-03-2017 09:31</td>
<td>18/03/17 09.31 153 - Called comp, can make a statement a 3pm today.</td>
</tr>
<tr>
<td>18-03-2017 12:55</td>
<td>18/03/28 12.55 153 - Comp called, is no longer able to make a statement today, rearranged for Monday 1pm at her home address.</td>
</tr>
<tr>
<td>23-03-2017 07:42</td>
<td>23/03/17 07.42 153 - Statement taken by AMO 140 on Tuesday 21/03/17. Comp didn't see who or what started the fight as her dog was behind a park bench. She heard the fight and when she got there the offending dog had her dog by the face and pinned her to the ground. Her dog has no injuries.</td>
</tr>
<tr>
<td>25-03-2017 12:28</td>
<td>25/03/17 12.28 153 - VP, NOH, NDS. LN in LB.</td>
</tr>
<tr>
<td>19 Sep 2017: Auckland Council</td>
<td>Job #1869494</td>
</tr>
</tbody>
</table>
25-03-2017  25/03/17 18.06 153 - D/O called, states that she knows exactly what incident I am referring to. States that the other dog jumped on Jack who has a sore back from past abuse so Jack told the dog off. Advised her the comps version is that Jack pinned her dog to the ground. She denied this and told me that I had to talk to Chris, the head of Animal Management has he knows her and her dog and waived her last infringement. I advised her there was no Chris and asked if she was referring to Christo, she said yes. I advised he was my Team Leader, no the head of AM. She still insisted I talk with him. I advised the best thing for her to do would be to make a statement. She said that she will email me one as she is busy. Gave her my email address.

07-04-2017  Text from 'offending' dog owner
09:07

07-04-2017  Statement from dog owner
14:11

14:13

13-04-2017  13/04/17 10.39 153 - WARN to be sent for comp, she admits in her statement that her dog ran off towards it 'friends' and she did not see how the incident started. No WARN or INFN for D/O.

Called comp and updated.

WARN sent #0026479.

Dog reference #156603-3.

PLEASE CLOSE

13-04-2017  Dog owner update
11:11

13-04-2017  Comp update letter
11:29

19-04-2017  Updated/Closed.
05:39

19 Sep 2017: Auckland Council  Job #1869494
At Maddills Farm this morning, between 930-945, a dog which caller says is a repeat offender has attacked another dog -
the aggressive dog had to be beaten before it would let the dog go and blood was everywhere. The dog has previously
attacked caller's dog and other dogs. Caller says the owner of the dog is called 'Rebecca' and the dog is called 'Jack' and it
is a Jack Russell terrier. This was in the off leash area at Maddills Farm. Caller is scared that a child will be attacked at
some stage in future.

<table>
<thead>
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<tbody>
<tr>
<td>20-10-2016</td>
<td>19/10/2016 15:23 AMO 226 Phone call made to complainant. Introduced myself and explained the reason for my phone call. I asked her to explain what had happened. She states the dog owner is a frequent user of the park. She states the woman thinks she is really good with dogs and talks about her dog being a rescue dog. She states the park they go to is an off leash dog exercise area but states this woman does not have control of her dog named Jack who is a small Jack Russel. She states in the past the jack Russell has attacked her Labrador but she did not report it. I asked her to explain what had happened today involving the dog. She states there was a woman who had her dog off leash, a small white Maltese who was off leash. She states she didn't see the attack but heard a horrific sound. And states once she looked in that direction she realised that it was the woman with her dog Jack who had just done something to this small white dog. I asked if she had any details</td>
</tr>
</tbody>
</table>

19 Sep 2017: Auckland Council Job #1818413
for the dog owner of the white dog. She states she doesn’t know who she is and states she is not a regular at the park. I then asked if she had any details for the offending dog owner. She states she comes everyday between 9am -10am and states she has her name and phone number signed plastered across her car so she will give me those details when she sees her next time. I asked if I was able to obtain a statement from a witness perspective about the incident that happened yesterday. She states she is really busy with her children but would be able to email me something later tonight. Email address provided to complainant. End of phone call.

20-10-2016 19/10/16 15:50 AMO 226 and 225
13:00 Arrived at Maddills Farm. Patrolled park on foot. Various signs showing park is off leash area. No dog matching the description of the offending dog sighted. End of patrol.

20-10-2016 Park scene photo 1
13:14

20-10-2016 Park scene photo 2
13:14

20-10-2016 Park scene photo 3
13:14

28-10-2016 ***Complainants statement******
09:29

From: [mailto:]
Sent: Thursday, 20 October 2016 1:15 p.m.
To: Gina Woolston
Subject: Dog Attack - Madill's Farm - Wednesday 19 October - Jack

Good afternoon Gina,

Thank you for calling me yesterday after I contacted the council following witnessing a dog attack by 'Jack' at Madill's Farm.

I live locally and walk my labrador at Madill's Farm most days. Madill's Farm is a great dog off-lead park and is well used. I have met lots of lovely responsible dog owners over the 10 months that I have been using the park. My own dog was previously attacked by 'Jack' in January when she was a puppy. Once the wounds had healed I

19 Sep 2017: Auckland Council

Job #1818413
returned to walking her in Madiil's Farm and soon learnt that 'Jack' had a reputation for attacking other dogs, especially puppies. I have tried to talk with the owner and was told that 'Jack' is a rescue dog and that she has had him for around two years. Apparently she is a dog trainer but I am very dubious of this as she seems to have no control of Jack. Her name is Rebecca Maude.

Yesterday's attack happened at around 9:45am - there were lots of people in the park and around 20 dogs off-lead. Many of the dogs were playing near their owners but Jack's owner was at least 50 metres away talking with another person. Without any warning, 'Jack' started a frenzied attack on a small bichon frise dog and another dog owner had to repeatedly hit 'Jack' with her plastic ball thrower to get him to release the bichon frise. It was awful to witness and the bichon frise was obviously hurt as it was crying in pain.

I am reporting this attack as there are many small children who accompany their parents to the park and I believe that if 'Jack' continues to be off-lead then there will another attack to either a dog or to a child.

Please contact me if you need any further information.

Thanks,
Renee Cornaga

28-10-2016 09:30 AMO 226
09:30 Can not locate offending dog owner Rebecca Maude in pathways or DMS

02-11-2016 29/10/2016 17:30 AMO 226
11:39 Arrived at Middlands Reserve. Patrolled the park both on foot and by vehicle. No dog matching the description located.
Patrolled the surrounding streets around the park and could not locate the dog.
End of patrol.

08-11-2016 Prelim handed to SNR
10:10

08-11-2016 Offending dog located - "Jack" ref:156603-3 Street, St

19 Sep 2017: Auckland Council  Job #1818413
10-11-2016 14:45 AMO 226 and 225
07:05 Arrived at dog owners property. Both dog and dog owner onsite. Introduced ourselves and explained reasons for visit. She states that her dog is a rescue dog and agreed that the dog gets funny around smaller puppies. She states once she sees a smaller energetic dog or a puppy she puts her dog on a lead or picks it up. AMO 225 suggested she purchase a muzzle and get the dog to wear it when out socialising as she has just admitted the dog is unpredictable. When question about the incident we were there about she states that her dog did not make contact with the dog but growled at it when it was jumping on it. She states her dog has not bitten before but does do a deep horrible growl. Explained that she would be receiving a warning infringement on this occasion but explained that she really needs to think about ways of controlling her dog because if it was to happen again then it would become a serious thing with infringements and possible prosecution. She states she understood. Warning infringement to be sent as per SAMO 158 instruction.

10-11-2016 07:26 AMO 226 and 225
07:25 Warning Infringement 0010092 issued.
LTDR.
NFA
Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Regulatory Committee:

a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Deliberations on objection against a Menacing Dog Classification

<table>
<thead>
<tr>
<th>Reason for passing this resolution in relation to each matter</th>
<th>Particular interest(s) protected (where applicable)</th>
<th>Ground(s) under section 48(1) for the passing of this resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</td>
<td>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). In particular, the deliberations of the decision could compromise the council in undertaking without prejudice negotiations of this objection pursuant to section 33A of the Dog Control Act 1996.</td>
<td>s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</td>
</tr>
</tbody>
</table>