

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)(j))¹.
- Auckland Council and Auckland Transport² 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)(h) Local Government (Auckland Council) Act 2009

Bylaw effective / efficient?	
<ul style="list-style-type: none"> ✘ 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?	
<ul style="list-style-type: none"> ✘ 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?	
<ul style="list-style-type: none"> ✘ Likely to be low. There are no known public awareness initiatives. 	
Bylaw fit for the future?	
<ul style="list-style-type: none"> ✘ 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?	
<ul style="list-style-type: none"> ✓ 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	Option 2: Revoke the clauses from the bylaw (RECOMMENDED)
<ul style="list-style-type: none"> • No changes to wording. • No enforcement. • Council would continue to repair any damage. 	<ul style="list-style-type: none"> • 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:	Effectiveness and efficiency:
<ul style="list-style-type: none"> ✘ 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. 	<ul style="list-style-type: none"> ✓ Enables Council enforcement if the person responsible is identified (not occurred to date). ✓ Removes unnecessary bylaw regulation.
Bill of Rights implications:	Bill of Rights implications:
<ul style="list-style-type: none"> ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. 	<ul style="list-style-type: none"> ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990.
Fit for future:	Fit for future:
<ul style="list-style-type: none"> ✓ Bylaw not used. 	<ul style="list-style-type: none"> ✓ Enables enforcement action if required.
Māori impact/risk:	Māori impact/risk:
<ul style="list-style-type: none"> ✓ There are no specific impacts for Māori. 	<ul style="list-style-type: none"> ✓ 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 (s22AB(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.

Bill of Rights implications:

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

N/A

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).

ISSUES IN 2013

- Nuisance and intimidation factors, safety risks for road users, pedestrians as well as window washers.
- Council received and investigated complaints although exact data is not available.

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).

<ul style="list-style-type: none"> ✘ 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 public aware of the bylaw? ✘ There is likely to be limited awareness of the bylaw.	
Is the bylaw clearly written? ✘ No. Bylaw not easy to 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	
Option 1: Status quo – Retain current wording and implementation <ul style="list-style-type: none"> • Covers public places not covered by Land Transport Act (i.e. other than roads) and Auckland Transport bylaw. • No changes to bylaw wording. • No enforcement. Issue addressed by Police using national legislation. 	Option 2: Revoke bylaw clause (RECOMMENDED) <ul style="list-style-type: none"> • Revoke clauses from the bylaw. • Land Transport Rule becomes key regulatory tool. • Council would no longer have a regulatory compliance role.
Effectiveness and efficiency: <ul style="list-style-type: none"> ✘ Bylaw applies to public places where there is no issue. Problem only occurs at road intersections. ✘ Bylaw and its enforcement is ineffective. ✘ Bylaw could create confusion and duplication of effort between Police and Council. ✘ Retains bylaw regulation that is no longer used. 	Effectiveness and efficiency: <ul style="list-style-type: none"> ✓ Police already address issue under new national legislation. ✓ Police have better powers and training to manage the issue. ✓ Remove unnecessary bylaw regulation. ✓ No health and safety risk to council officers. ✓ Aligns with current practice. Council officers have ceased responding to complaints.
Fit for future: <ul style="list-style-type: none"> ✘ Issue occurs on road intersections and is covered under new national legislation that Police enforce. Bylaw ineffective now and in the future. 	Fit for future: <ul style="list-style-type: none"> ✓ Issue occurs on road intersections and is covered under new national legislation that Police enforce.
Bill of Rights implications: <ul style="list-style-type: none"> ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. 	Bill of Rights implications: N/A
Māori impact: <ul style="list-style-type: none"> - Māori are more likely to participate in car window washing. No regulatory intervention on its own can fully address this complex social issue. 	Māori impact: <ul style="list-style-type: none"> - 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 set 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.

STATUTORY OBLIGATIONS/POWERS

- 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).

ISSUES IN 2013

- Interference with lifesaving equipment and warning devices on beaches could create risk to public safety.
- No data available on scale or impact of the problem. No data available on number or location of equipment.

OUTCOME SOUGHT AND BYLAW RESPONSE IN 2013

- To ensure public safety, minimise nuisance, and manage the use of land, assets, or structures on parks and beaches.
- Auckland Council bylaw prohibits interference with lifesaving equipment, warning devices, or notices on a beach.
- 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).
- Penalties for bylaw breaches include a maximum \$20,000 court fine (s242(4) LGA).

BYLAW IMPLEMENTATION SINCE 2013

- Park rangers have not used the bylaw, in part due to a lack of training.
- Council community facility maintenance team replaces or repairs damaged lifesaving equipment.

ISSUE IN 2018

- 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.
- 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.
- No related issues reported by Harbourmaster or Auckland Transport on wharves.
- No enforcement. Limited ability to identify offenders.

OUTCOME SOUGHT IN 2018

- 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.

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	Option 2: Revoke bylaw and rely on Local Government Act 2002 and Summary of Offences Act 1981 (RECOMMENDED)
<ul style="list-style-type: none"> • No changes to wording (only applies to beaches). • No enforcement. Any damage repaired/replaced. 	<ul style="list-style-type: none"> • 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:	Effectiveness and efficiency:
<ul style="list-style-type: none"> ✘ 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. 	<ul style="list-style-type: none"> ✓ Enables Council enforcement in all public places if the person responsible is identified (not occurred to date).
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
Fit for future:	Fit for future:
✘ Bylaw not used, and only applies to beaches.	✓ Enables enforcement action on any public place.
Māori impact/risk:	Māori impact/risk:
- The issue and risks are the same for all Aucklanders.	- 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.

OPTIONS

<p>Option 1: Status quo – Retain current wording and implementation</p> <ul style="list-style-type: none"> Storage or packaging of goods in a public place only prohibited if causing an <u>obstruction</u> unless approved by council. Council responds to complaints. 	<p>Option 2: (RECOMMENDED) Amend – Prohibit <u>use</u> of public places to store or pack goods</p> <ul style="list-style-type: none"> <u>Use</u> of public places to store or pack goods prohibited unless approved by council (exemptions may apply). Council responds to complaints. 	<p>Option 3: Revoke bylaw – Rely on Auckland Transport bylaw and Police enforcement of obstructions of public ways</p> <ul style="list-style-type: none"> Obstruction of public ways to store or pack goods prohibited. Auckland Transport and Police respond to complaints.
<p>Effectiveness and efficiency:</p> <ul style="list-style-type: none"> ✗ Issues associated with misuse of public places remains. ✗ Inconsistency with trading bylaw remains. ✓ Enables council to respond to complaints using a graduated compliance approach. 	<p>Effectiveness and efficiency:</p> <ul style="list-style-type: none"> ✓ 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. 	<p>Effectiveness and efficiency:</p> <ul style="list-style-type: none"> ✗ 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).
<p>Bill of rights implications:</p> <ul style="list-style-type: none"> ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. 	<p>Bill of rights implications:</p> <ul style="list-style-type: none"> ✓ Does not give rise to any unjustified implications under New Zealand Bill of Rights 1990. 	<p align="center">n/a.</p>
<p>Fit for future:</p> <ul style="list-style-type: none"> ✗ No. Does not address the misuse of public places, nor inconsistency with the trading bylaw. 	<p>Fit for future:</p> <ul style="list-style-type: none"> ✓ Yes. Addresses issues associated with misuse of public places (not only obstructions). Can also provide for appropriate exemptions. 	<p>Fit for future:</p> <ul style="list-style-type: none"> ✗ Police are unlikely to prioritise enforcement. ✗ Police and Auckland Transport response limited to public ways and Auckland Transport system (does not include inappropriate use or parks).
<p>Māori impact/risk:</p> <ul style="list-style-type: none"> ✓ 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. 	<p>Māori impact/risk:</p> <ul style="list-style-type: none"> - Risk around impact on homeless (who are more likely to be Māori) storing of possessions in public places requires investigation. 	<p>Māori impact/risk:</p> <ul style="list-style-type: none"> ✓ 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.