

Auckland Council Policy on Dogs and Dog Management Bylaw Statement of Proposal

File No.: CP2019/00308

Item 10

Te take mō te pūrongo Purpose of the report

1. To recommend to the Governing Body that it adopt the Auckland Council's New Policy on Dogs and Dog Management Bylaw 2019 statement of proposal.

Whakarāpopototanga matua Executive summary

2. Staff have prepared a statement of proposal to amend the Auckland Council Policy on Dogs 2012 and Dog Management Bylaw 2012 (Attachment A). The proposal, draft policy and bylaw implement the committee's decisions [REG/2018/78, REG/2018/79], and meet statutory requirements.
3. The statement of proposal aims to improve dog management in Auckland, by making the following changes:
 - reorganising the policy and bylaw information into user friendly themes
 - removing duplication from the bylaw, which will also simplify amendment processes
 - reducing confusion about dog access rules and improve voluntary compliance by:
 - presenting the rules in the schedule in a consistent manner
 - applying a consistent time and season definition and multiple dog ownership rule
 - addressing emerging issues around dog management by:
 - including specific reference to the Code of Welfare
 - extending environmental protection to include flora
 - clarifying delegations and process for additional designated dog exercise areas
 - clarifying the enforcement of neutering uncontrolled dogs
 - clarifying council jurisdictional power on privately-owned public spaces
 - promoting responsible dog ownership of menacing dogs
 - reviewing dog access rules in regional parks.
4. There is a low reputational risk to council of being criticised for relitigating recently made decisions by local boards that impact local dog access rules. This will be mitigated by communicating the benefits of consistent dog access rules across the region.
5. Public engagement is scheduled to take place from 1 April 2019 to 10 May 2019. A panel will consider feedback, deliberate and make recommendations to the Governing Body for the final approval and adoption.

Ngā tūtohunga Recommendation/s

That the Regulatory Committee:

- a) recommend that the Governing Body adopt the statement of proposal in Attachment A of the agenda report for public consultation and confirms that the draft bylaw:
 - i) is the most appropriate and proportionate way to implement aspects of the policy
 - ii) is not inconsistent with the New Zealand Bill of Rights Act 1990.
- b) recommend that the Governing Body forwards to local boards and advisory panels:
 - i) the statement of proposal in Attachment A of the agenda report for their views
 - ii) this agenda report and attachments for their information.
- c) appoint a minimum of three panel members, including a chair, from councillors and the Independent Maori Statutory Board to:
 - i) attend 'Have Your Say' events
 - ii) deliberate and make recommendations to the Governing Body based on public feedback on the statement of proposal in Attachment A of the agenda report.
- d) delegate authority to the chair of the Regulatory Committee to make replacement appointments to the panel if a member of the panel is unavailable.
- e) delegate authority through the chief executive to staff approved by a manager responsible for bylaws to receive public feedback at 'Have Your Say' events.
- f) delegate authority through the chief executive to a manager responsible for bylaws to make any amendments to the statement of proposal in Attachment A of the agenda report to correct errors, omissions or to reflect decisions made by the Regulatory Committee or the Governing Body.
- g) rescind the previous direction to "apply dog access rules that protect wildlife in Mahurangi Regional Park to allow dogs under control on-leash on Mita Bay Loop Track and prohibited from Cudlip Point Loop Track, and that a dog-friendly campground be created" [REG/2018/79] and instead retain the status-quo rules for the Mahurangi Regional Park.

Horopaki Context

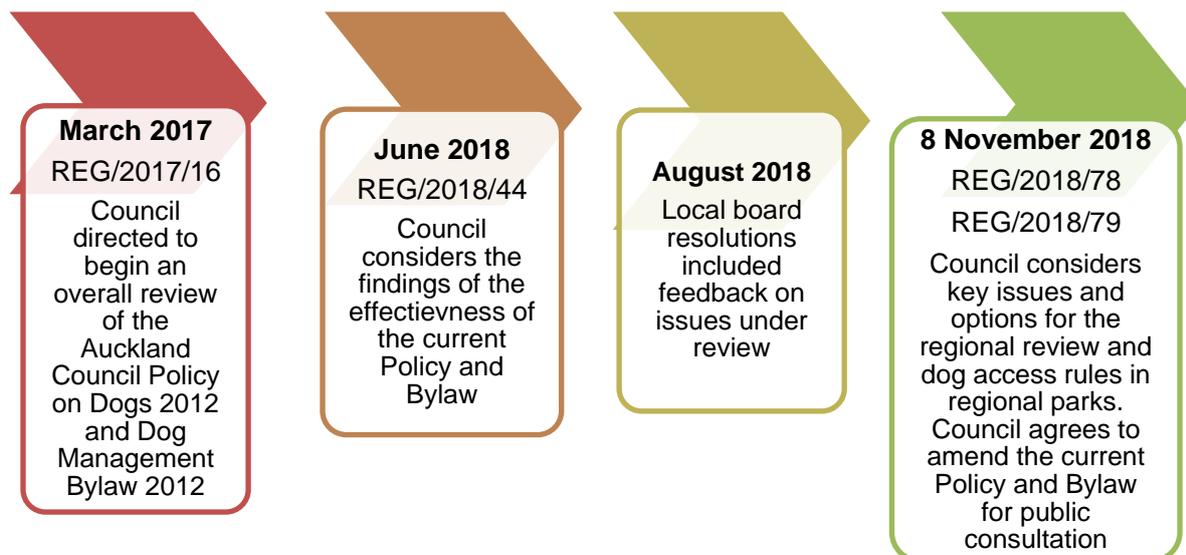
6. Under the Dog Control Act 1996 (the Act), Auckland Council must adopt a policy on dogs. A bylaw can implement aspects of a policy.
7. The purpose of Auckland Council's Policy on Dogs, Kaupapa mo nga Kuri 2012 (the current Policy) is to:
 - maintain opportunities for dog owners to take their dogs into public places
 - adopt measures to minimise the problems caused by dogs.
8. The Dog Management Bylaw, Ture ā-Rohe Tiaki Kuri 2012 (the current Bylaw) gives effect to the current Policy by:
 - regulating public places where a dog may be taken and the means to control the dog
 - limiting the number of dogs that may be kept on any premises
 - requiring immediate removal of dog faeces in a public place

- prohibiting female dogs in season from public places
- requiring a dog to be neutered if it has not been kept under control on more than one occasion.

Regulatory Committee agreed to amend the current Policy and Bylaw

9. In November 2018, the committee requested staff amend the current Policy and Bylaw and provided direction for amendments to the current Policy [REG/2018/78] and to the dog access rules in regional parks [REG/2018/79].
10. The process leading up to this decision is summarised in Figure 1.

Figure 1: Decisions by the Regulatory Committee to date



Tātaritanga me ngā tohutohu Analysis and advice

The Local Government Act 2002 sets out the process to amend the Bylaw

11. The council must use the special consultative procedure to amend the current Policy and Bylaw, as amendments could significantly impact the public, particularly dog owners.
12. This requires Council to:
 - determine that the proposed Bylaw meets Bill of Rights criteria
 - adopt a statement of proposal, including the proposed Policy and Bylaw, for public feedback
 - decide on any amendments to the proposed Bylaw after having considered public feedback.
13. Staff have drafted a statement of proposal including the proposed Policy and Bylaw (Attachment A). The statement of proposal implements the council decision to amend the Policy and Bylaw. It has been prepared in accordance with statutory requirements and best practice regulatory drafting guidelines.
14. The proposed Policy and Bylaw would ensure improved dog management through clear and consistent requirements.
15. Staff consider that the proposed Bylaw is not inconsistent with the Bill of Rights. There are potential limitations to the freedom of movement of dog owners, when accompanied by their dog. Staff consider that this limitation is justifiable for the following reasons:

- it protects the safety of children and minimises conflict between dogs and other people
- it is only the dog restricted access to public places not the owner
- exemptions are included for those dependent on dogs for their mobility.

16. Table 1 summarises the rationale for the proposed amendments.

Table 1: Summary of proposed changes to the Auckland Council Policy on Dogs 2012 and Dog Management Bylaw 2012

Proposed amendment	Reason for proposed change	Change in Policy	Change in Bylaw
Organisation of Policy content	The proposed policy has been reorganised into user friendly themes. It also better highlights the relationship between the Policy and the Bylaw, and clearly states what is expected of dog owners and what activities Auckland Council will undertake to manage dogs.	✓	
Removal of duplicate information	Schedules 1 and 2 are duplicated in the current Policy and Bylaw. These have been removed from the proposed Bylaw and are now contained in the proposed Policy only. This change will also make it easier for local boards to make future amendments to local dog access rules.	✓	✓
Reference the Code of Welfare for dogs	The Code of Welfare for Dogs from the Animal Welfare Act 1999 is now referenced in the proposed policy. Reference to the code highlights owner obligations. These are already used by council staff.	✓	
Time and season definition 10am to 7pm from Saturday of Labour Weekend to 31 March	The purpose of a time and season rule is to minimise the conflict between dogs, their owners and other users of busy, public places. Thirteen local boards have requested variations to the time and season definition contained within the current Policy and only one local board is using the current definition in areas within their local board. The council wants to standardise the time and season definition to make it easier for the public to know when dogs are allowed on the beaches that use the time and season rule. Local boards will still determine where a time and season rule will be applied.	✓	
Clarifying council's jurisdiction on privately owned public spaces	Schedule 1 of the current Policy identifies dog access rules for council-controlled public places. Dog access to public places not under control of council is prohibited, unless permission is obtained by the person in charge of that place or there is signage indicating that dogs are allowed. An explanatory note has been added to the proposed policy to clarify that public places under co-governance arrangements are considered privately-owned public spaces, therefore governed by this rule, unless they are specifically stated in Schedule 2.	✓	

Proposed amendment	Reason for proposed change	Change in Policy	Change in Bylaw
Standardise the way local dog access rules are organised in Schedule 2	<p>The current Policy assumes a default rule of 'dogs being under control on leash'. Local boards have introduced rules into Schedule 2 which have created different default rules for their areas.</p> <p>Schedule 2 of the proposed policy no longer contains different default rules. Rules are presented in a consistent format which will make it easier for owners to know where they can take their dog.</p> <p>This will not change the types of access rules that are currently applied to any local beach, park or reserve.</p>	✓	
Increased protection for flora that are vulnerable to dogs	<p>Council is proposing to extend its ability to make temporary changes to dog access rules to protect flora vulnerable to dogs, such as kauri.</p>	✓	✓
Owners will only require a multiple dog ownership licence for more than two dogs in properties zoned as urban residential in the Unitary Plan	<p>The current Policy and Bylaw have different rules for multiple dog ownership depending on where the dog owner lives. The proposed Policy and Bylaw standardises the rule across Auckland. Most residential properties are adequate to home two dogs, however greater issues tend to arise where three or more dogs are kept on a property. The purpose of the licence is to ensure these aspects of dog welfare are addressed.</p>		✓
Encouraging responsible dog ownership for menacing dog owners	<p>The proposed Policy allows for owners of dogs classified as menacing, to have their dog's classification reviewed if they provide evidence of completing a dog obedience course and if the owner has not obtained any infringements in relation to the dog within a 12-month period. The removal of classification of the dog is at the discretion of council.</p> <p>This change is intended to incentivise dog owners to modify their dog's behaviour and promote responsible dog ownership.</p>		✓
Requirement to neuter an uncontrolled dog	<p>The proposed bylaw includes an explanatory note to clarify that owners who do not comply the with current requirement to neuter their dog, if it is not under control on more than one occasion over a 12-month period, may be subject to an infringement and would still be required to neuter their dog.</p>		✓
Clarifying intent of owners picking up after their dog	<p>Clause 11 of the Bylaw requires owners to immediately pick up after their dog after it defaecates. This section has been reworded to clarify the intent of this clause.</p>		✓

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Proposed amendment	Reason for proposed change	Change in Policy	Change in Bylaw
Amendments to regional parks	<p>Implement the following:</p> <ul style="list-style-type: none"> a standard time and season definition of 10.00am to 7.00pm from the Saturday of Labour Weekend to 31 March a standard lambing season rule to prohibit dogs from 1 July to 1 December amend dog access rules to protect wildlife. 	✓	

Review of dog access rules in Mahurangi Regional Park

- In November 2018, the committee agreed to amend the dog access rules in Mahurangi Regional Park to make Culdip Point Loop Track prohibited, Mita Bay Loop Track on leash, and to create a dog friendly campground [REG/2018/79].
- Staff recommend rescinding this decision and retaining the status quo dog access rules in Mahurangi Regional Park for now which are: dogs are allowed under control on a leash on the coastal area around Opahi Bay, Mita Bay beach, and on the Culdip Point Loop Track (outside of lambing season). The statement of proposal anticipates this decision.
- The reason for this recommendation is:
 - Mahurangi Regional Park staff have advised that the additional development required to bring the Mita Bay Loop Track up to a standard for on-leash dog walking is more than anticipated
 - budget has not yet been identified to complete work on the Mita Bay Loop Track
 - dog owners would not have access to a useable track within Mahurangi Regional Park
- When infrastructure improvements are made to Mita Bay Loop Track in the future, then the Regulatory Committee could consider amending the access rules at that time. This would require public consultation and a decision from the Regulatory Committee to amend the rule in Schedule 2 of the adopted Policy.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

- Proposed changes to dog management in public places will not have a direct impact Council Controlled Organisations.

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

- Local board member views were sought during the review of the current Policy and Bylaw, through cluster workshops and 21 local board workshops. Local boards will have the opportunity to provide feedback on the statement of proposal and directly to the panel at a meeting to be held in May 2019.

Tauākī whakaaweawe Māori Māori impact statement

23. Views from members of the Parks and Recreation Mana Whenua Forum were sought during the review of the current Policy and Bylaw. A summary of this feedback and how it was used to inform the review is summarised in the reports presented to the committee on 8 November 2018. Māori will have an opportunity to provide feedback on the proposed Policy and Bylaw through public engagement.

Ngā ritenga ā-pūtea Financial implications

24. Public engagement costs are budgeted. Changes to dog access rules would result in the development of new signage which is not within current budgets.

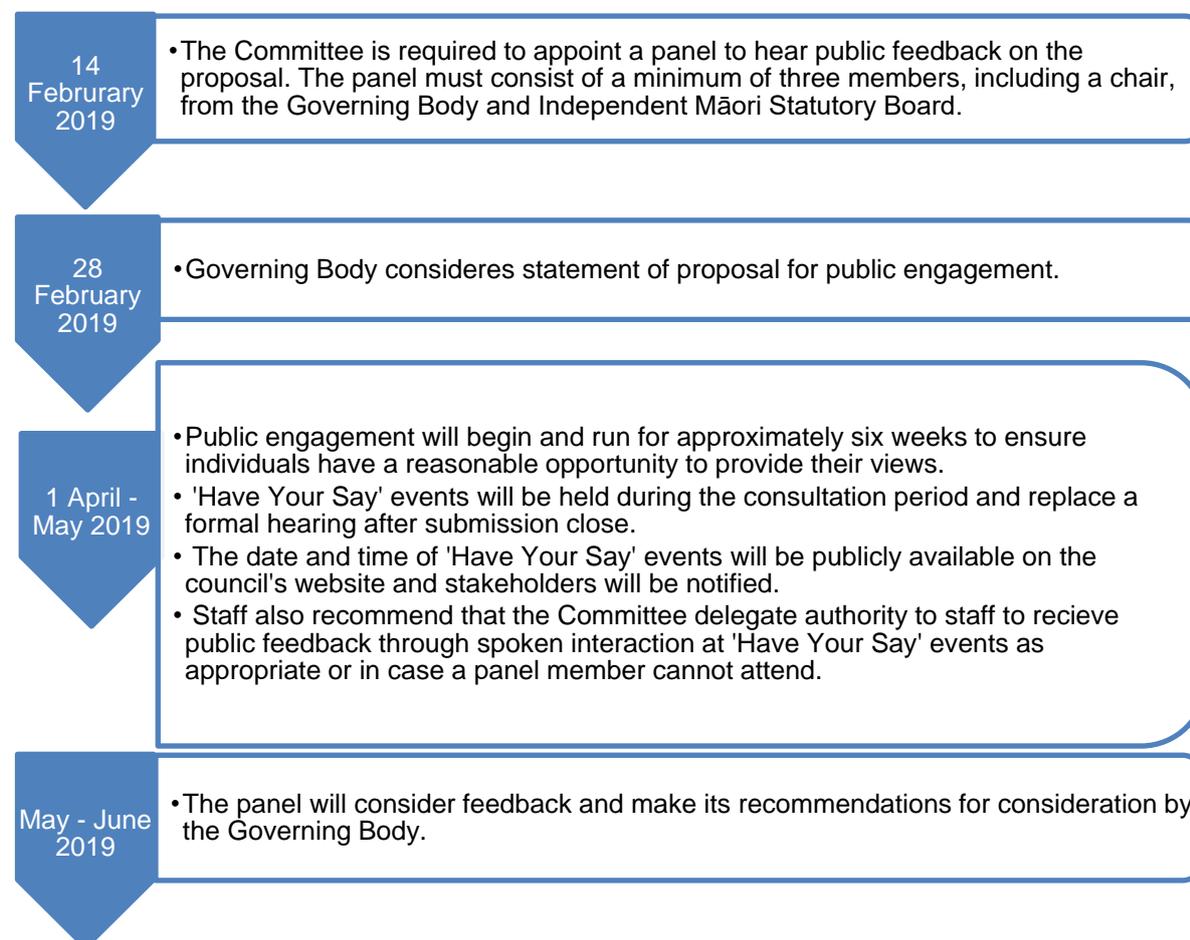
Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

25. There is a low reputational risk to council of being criticised for relitigating recently made decisions by local boards that impact local dog access rules. This will be mitigated by communicating the benefits of consistent dog access rules across the region.

Ngā koringa ā-muri Next steps

26. The next steps for the current Policy and Bylaw review are outlined in in Figure 2.

Figure 2: Timeframe and actions to complete the current dog Policy and Bylaw review



Ngā tāpirihanga Attachments

No.	Title	Page
A 	Statement of Proposal	27
B 	Dog Management Bylaw 2012 - track changes	129

Ngā kaihaina Signatories

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