

Application (scope) of Public Safety and Nuisance Bylaw

Regulatory Committee

10 May 2018

Purpose: To seek direction on application of the Bylaw

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Current application of Bylaw

- Applies to any place accessible to a general member of the public (unless stated otherwise)

Public Place “means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place”

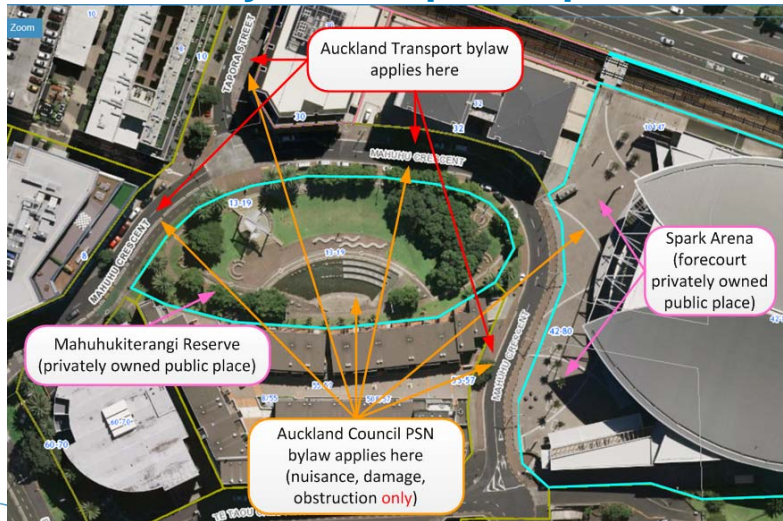
“includes any hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.”

[\[clause 5 Auckland Council Public Safety and Nuisance Bylaw 2013\]](#)

- Boundaries between the types of public places are not obvious



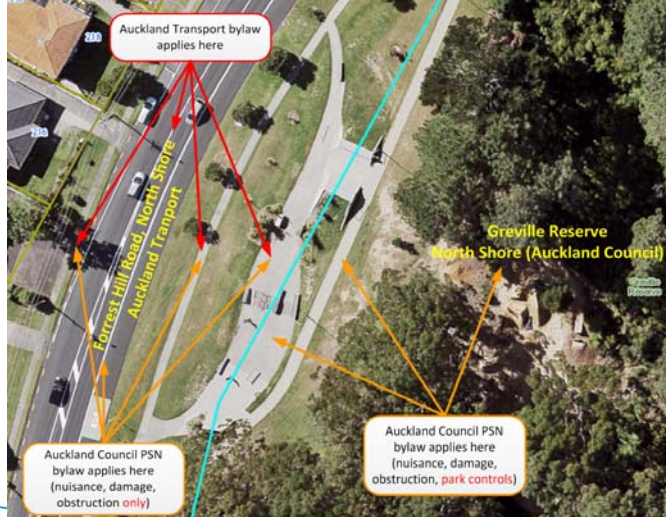
Privately owned public places



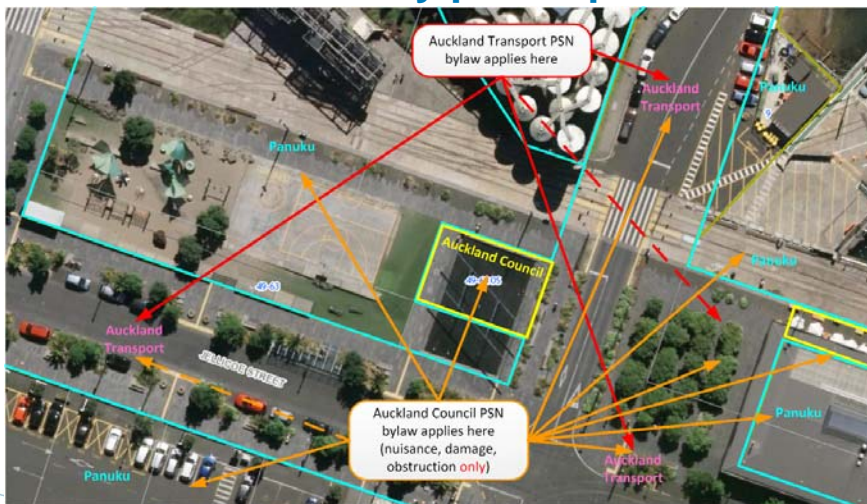
Privately owned public places



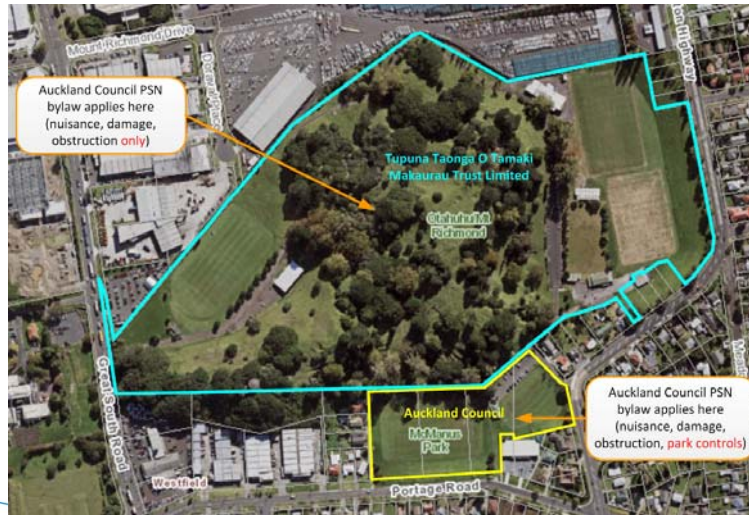
Council family public places



Council family public places



Maunga Authority public places



What Bylaw clauses apply to all public places?

- obstruction, disturbance or interference (effects based bylaw clause)
- reckless use of any material or thing (effects and use based bylaw clause)
- nuisance and dangerous fences (effects and use based bylaw clause)
- lighting fires and fireworks (use based bylaw clause)
- deposit, move or remove matters and materials (use based bylaw clause)
- remove or damage trees or vegetation (use based bylaw clause)
- encroaching vegetation (effects based bylaw clause)
- encroaching door, gate (use based bylaw clause)
- place or leave materials, structures building, or tent (use based bylaw clause)
- store or pack goods (use based bylaw clause)



Bylaw implementation since 2013

- Auckland Council officers investigate complaints in all public places
- Use a graduated approach to compliance
 - response times prioritised, action depends on circumstances
- Taking this approach:
 - enables seamless customer response where boundaries not obvious
 - supports business to address issues where needed
 - supports Police to address issues below a summary offence or criminal threshold
 - does not preclude private use of security, trespass laws, or Police
 - does not oblige council to provide a level of service beyond graduated approach to compliance
 - is supported by council compliance officers



Issues with current approach

- Bylaw does not provide for Maunga Authority and private owners to manage the use of land they control
 - Only Council family may allow exemptions
 - Committee decisions change bylaws focussed on 'effects of use' to 'how you use' public places



Conclusions and recommendations

- **Recommend Committee retain application of Bylaw to all public places (unless stated otherwise) with amendments to:**
 - only address issues not covered in other bylaws made by Auckland Council, Auckland Transport, or Maunga Authority
 - allow for exceptions approved by Auckland Council, Council Controlled Organisations, Maunga Authority and private owners
- Taking this approach will:
 - address issues on public places administered by Panuku, Maunga Authority, and privately owned public places if needed
 - address issues on Auckland Transport System not transport-related
 - avoid duplication and potential for inconsistency
 - complaints will continue to be investigated

Questions?