

# Auckland Council Policy on Dogs 2012

## 2018 Options Report

### Executive Summary

This report analyses the options available to Auckland Council in response to the review of the Auckland Council Policy on Dogs 2012 (the Policy) and Dog Management Bylaw (the Bylaw). Under the Dog Control Act 1996 (the Act), every territorial authority must have a policy on dogs. The Act also enables territorial authorities to have a bylaw on dogs to implement aspects of the Policy. Staff assessed the options based on the framework and content of the current Policy:

- Option 1: status quo (Current Policy and Bylaw)
- Option 2: amend the Policy and Bylaw.

Staff recommend Option 2 with the following amendments:

- organise the framework into themes, to make it easier for users to access relevant information and improve clarity
- communicate dog access rules in a consistent manner in the Schedule of rules that could improve voluntary compliance and enforcement activities
- remove duplication between the Policy and Bylaw, by removing Schedule 1 and 2 from the Bylaw
- refer to the Code of Welfare to promote the welfare of dogs
- extend the ability to make temporary changes to dog access rules to protect Auckland's natural environmental
- clarify council's enforcement ability to ensure dogs are neutered if found to be uncontrolled
- create regionally consistent rules for dog access decision making, time and season definition, the default rule and the multiple dog ownership process
- promote responsible dog ownership by enabling owners of dogs classified as menacing by deed, to have the period of classification be reviewed if they have undertaken a dog obedience course
- provide clarity on what privately owned public spaces are covered by the schedule of access rules.

### Introduction

Details in this report draw on the information presented in the 'Auckland Council Policy on Dogs 2012 and Dog Management Bylaw: 2018 Findings Report'.

Staff presented their findings to the Regulatory Committee (the Committee) on 14 June 2018. The Committee endorsed the findings, in particular that (REG/2018/44):

- regulation is required to minimise the problems caused by dogs to ensure that they remain a positive part of life in Auckland
- while the current Policy and Bylaw are effective in managing dogs, these could be improved.

The Committee also directed staff to develop options that further describe how the Policy and Bylaw should be amended.

## Regulatory Context

Auckland Council adopted its Policy and Bylaw in 2012. Under the Dog Control Act 1996 (the Act), a territorial authority must have a policy on dogs. The Act also enables a territorial authority to have a bylaw to implement aspects of the policy. This relationship is outlined in Figure 1.



The Act identifies minimum provisions for a policy that a territorial authority must have (Figure 2).

**Figure 2: Policy requirements for territorial authorities under the Dog Control Act 1996**

Dog management policy requirements		
Specify the nature and application of bylaws	State whether dogs classified as menacing are required to be neutered	In adopting a policy, the council <i>must</i> have regard to: <ul style="list-style-type: none"> <li>• minimise danger, distress and nuisance to the community generally</li> <li>• avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not accompanied by adults</li> <li>• enable, to the extent practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs</li> <li>• the exercise and recreational needs of dogs and their owners</li> </ul>
Identify public places in which dogs are to be prohibited	State whether dogs classified as menacing by any other territorial authority and registered with the council are required to be neutered	
Identify public places or parts of the district in which dogs are required to be under control on a leash	Shall include other details, as council sees fit, including but not limited to: <ul style="list-style-type: none"> <li>• fees or proposed fees</li> <li>• owner education programmes</li> <li>• dog obedience courses</li> <li>• classification of owners</li> <li>• disqualification of owners</li> <li>• issuing of infringement notices</li> </ul>	
Identify areas as designated dog exercise areas		

In addition to Figure 2, every statement or publication of a policy adopted:

- must identify any land within the district that is included in:
  - a controlled dog area or open dog area under section 26ZS of the Conservation Act 1987;
  - a national park constituted under the National Parks Act 1980
- may contain other information and advice related to dogs as the territorial authority deems necessary.

Under the Act, the Bylaw may include the following aspects of dog management:

- dog access rules (prohibiting dogs, under control on a leash, or a dog exercise areas)
- standards for accommodation
- number of dogs on premises
- picking up of dog faeces
- dogs in season
- impound dogs in breach of bylaw
- require certain dogs to be neutered
- dogs on private property.

Under Section 10(7) of the Act, no territorial authority shall make any bylaw that is inconsistent with the Policy. Therefore, the Policy review must precede the Bylaw. Following the review of the Policy, the Bylaw will be amended to reflect any changes identified from the Policy. A new Bylaw and Policy will be adopted by the Governing Body in 2019 after public consultation.

## **Problem definition**

### **Original problem definition**

When the Policy and Bylaw were developed in 2012, staff identified the original problem as:

- dog danger, distress and nuisance towards people and stock, poultry, domestic animals and protected wildlife
- dog neglect in Auckland because of the actions (or inaction) of their owners
- barriers to dog owners meeting their dog's exercise needs as a result of anticipated increased conflict with other public place users
- lack of understanding of current opportunities for dog owners to take their dog to public places.

The current Policy and Bylaw responded to this problem by amalgamating all dog management policies and bylaws from seven legacy councils. The provisions in the Policy and Bylaw ensure that dogs are treated with care, given an opportunity to be exercised and integrated into public places while minimising the harm caused by dogs.

### **Current and future problem**

The issues identified in 2012 still exist. These and other issues include:

- needing to promote dog registration
- minimising the harm to other people, animals and wildlife caused by dogs
- creating a regionally consistent approach for dog management
- communicating dog access rules using a clear, consistent approach

- providing a balanced approach in the availability of designated dog exercise areas.

As the population of Auckland increases and becomes more diverse, there will be a higher demand for public spaces. A balanced approach will be needed to meet the needs of dogs and their owners and others.

Additional detail on the current issues related to dog management can be found in the Findings Report [REG/2018/44].

## Scale and magnitude of the problem

In addition to the issues from 2012, Table 1 identifies the issues highlighted through the review:

Problem identified	Supporting data
Promoting dog registration	<ul style="list-style-type: none"> <li>• data shows that the number of dogs in Auckland are on the rise. In 2016/2017 there were approximately 115,544 dogs in Auckland, and 96,699 of those dogs were registered with the council.</li> </ul>
Minimising nuisance and harm	<ul style="list-style-type: none"> <li>• in 2016/2017 Animal Management officers responded to 37,699 complaints about dogs. The top three complaints include: roaming dogs, barking and unregistered dogs</li> <li>• in 2017, ACC reported 4,438 dog-related injuries in Auckland, amounting to \$1,147,527 in paid claims</li> <li>• approximately, 66 per cent of dog-related injuries are not reported<sup>1</sup>.</li> </ul>
Regional inconsistencies have made it difficult to understand and enforce dog management rules	<ul style="list-style-type: none"> <li>• there are variations with regard to: the time and season definition, the default rule, and the process for obtaining a multiple dog ownership licence</li> <li>• additional education is needed to protect vulnerable wildlife and the environment from the harm of dogs.</li> </ul>
Communication of dog access rules	<ul style="list-style-type: none"> <li>• complex dog access rules in Auckland have resulted in problems with accurate communication. There are over 140 variations of dog signage that have been created, and issues have been identified to improve the council's website.</li> </ul>
Availability of designated dog exercise areas	<ul style="list-style-type: none"> <li>• there are currently 41 designated dog exercise areas, located in eight local board areas. A regional approach to providing dog exercises areas could assist dog owners in accessing public places to adequately exercise their dogs.</li> </ul>

## Stakeholder's view of the problem

Stakeholders (operational council staff, external stakeholders, and Aucklanders) told staff that the needs of dog owners and non-dog owners should be balanced. Stakeholders identified that there should be a regionally consistent approach to dog management, including the time and season definition, default rule, and approach for multiple dog

<sup>1</sup> Ipsos (2018). Auckland Council Dog Management Bylaw and Policy Review. Auckland: Ipsos.

ownership licenses. There was a need for these rules to be communicated clearly to the public, through improved signage and the council website. The need for additional designated dog exercise areas was also identified.

The importance of owner education was highlighted as an important aspect of being a responsible dog owner, as well as the need to continue to protect Auckland's vulnerable wildlife and habitats.

## Objectives

The objectives of the Policy and Bylaw are to address the problems above by:

1. ensuring legislative requirements are being met under the:
  - Dog Control Act 1996
  - Local Government Act 2002
2. maintain opportunities for owners to take their dogs into public places
3. minimising the harm caused by dogs.

The review should also ensure that the Policy and Bylaw are clearly and effectively communicated to increase voluntary compliance with dog management and dog access rules.

## Outcomes

The key desired outcome is that the needs of dog owners are met, while minimising the harm caused by dogs.

## Policy and Bylaw Intent

The intent and objective of the Policy is to keep dogs as a positive part of the life of Aucklanders by maintaining opportunities for dog owners to take their dogs into public places while adopting measures to minimise the problems caused by dogs.

The intent of the Bylaw is to give effect to the Policy by providing the council effective powers for enforcement.

## Options

Staff identified the following options to achieve the outcome sought:

Option 1: status quo

Option 2: amend the Policy and Bylaw

## **Option 1: status quo – policy framework and bylaw**

### **Objectives and outcomes**

The objectives and outcomes of option 1 are stated above.

### **Policy design and content**

Option 1 retains the status quo policy framework and content.

### **Status quo**

The current Policy framework (status quo) provides the direction for dog management in Auckland. It addresses the following issues through policy statements addressing:

- responsible dog ownership
- dog welfare
- community education
- dog safe access (providing owners with reasonable access to public places and private ways)
- registration
- dog safe communities
- bylaws
- funding levels of service
- monitoring information to measure success.

The Policy also provides information about how Auckland Council will achieve the objectives and the above aspects of dog management.

The current Bylaw (status quo) gives effect to the Policy by:

- regulating public places where a dog may be taken by its owner and the means of control for the dog (prohibited, on leash or under control off leash)
- limiting the number of dogs that may be kept on any premises
- requiring the owner of any dog that defecates in any public place or premises other than that occupied by the owner to immediately remove the faeces
- prohibiting the owner of any female dog in season to take that dog into any public place
- requiring the owner of any dog (being a dog that, on more than one occasion, has not been kept under control) to cause that dog to be neutered.

The Bylaw provides the ability to enforce the above aspects of dog management.

This structure and contents is highlighted in Figure 3.

**Figure 3: Current Policy framework**

Auckland Council Policy on Dogs 2012	
Policy objective	
<b>Policy Statements</b>	<b>How council will achieve the policy and objectives:</b>
Responsible dog ownership	<ul style="list-style-type: none"> <li>provide incentives, information, education and services</li> <li>provide dog registration administration services</li> <li>maintain rules (make bylaws) on dog access in public places and private ways</li> <li>general criteria for making dog access rules (including time and season definition)</li> <li>maintain a response service, to receive, investigate and resolve dog complaints</li> <li>make bylaws that outline requirements for dog owners</li> <li>maintain dog compliance and enforcement of best practices</li> <li>determine the level of funding</li> <li>report annually on the administration of the Policy</li> </ul>
Dog welfare	
Community education	
Dog safe access	
Registration	
Bylaws	
Funding	
Monitoring	
Explanatory notes	
Schedule 1: General regional dog access rules	
Schedule 2: Local board area dog access rules	

## Bylaw design and content

Option 1 retains the status quo Bylaw design and content. This is depicted in Figure 4.

### Implementation

Implementation of the Policy is enabled through the Bylaw. Every person who breaches the Bylaw commits an offence. Offences under the Bylaw are also liable to a penalty under the Dog Control Act 1996 and the Local Government Act 2002.

#### *Compliance and enforcement*

Aspects of dog management under the Act and the Bylaw are enforced by Animal Management Officers. Under the Act, dog owners are required to register their dog(s) with the council. The fee structure associated with registration provides funding for Animal Management activities related to enforcement. (Note: a review of the council’s registration fees are out of scope for this Policy and Bylaw review).

Animal Management Officers take a graduated enforcement approach to Bylaw compliance and with enforcement under the Act. A dog owner in breach of the Bylaw is subject to a fine of up to \$300, up to a maximum of \$20,000.

**Figure 4: Current Bylaw Form**

<b>Dog Management Bylaw</b>	<i>Part 1: Preliminary provisions</i>
	<i>Part 2: Regulation and control of dogs</i>
	<i>Part 3: Enforcement, offences, penalties</i>
	<i>Part 4: Savings, transitional provisions</i>
	<i>Schedules:</i> General Dog Access Rules Specific Dog Access Rules by Local Board Premises on which Licence Required for More than 1 Dog Premises on which Licence Required for More than 2 dogs

## Pros and cons

### Pros

- meets legislative requirements under the Dog Control Act 1996
- current bylaw reflects clear objectives and purpose
- no change to current dog management approach would minimise cost
- would not require subsequent amendments to the Bylaw.

### Cons

- the current framework segregates related information, for example aspects of responsible dog ownership are highlighted in three parts of the Policy: the policy statements, information related to bylaws and in the explanatory notes
- separation of policy statements and actions makes the policy difficult to understand
- duplication of information, for example schedule 1 and 2, in both the Policy and Bylaw makes administration difficult
- Schedule 2 (dog access rules by local board area) is not presented in a consistent format creating confusion for dog owners
- the current content and decision-making framework for dog access rules make the Policy difficult to implement
- implementation of dog access rules has resulted in over 140 variations of dog signage
- variations of time and season across Auckland have resulted in confusion for both the public and enforcement officers.

### Risks

The council runs a reputational risk by remaining with the status quo in the Policy and Bylaw. This option does not address consistency (time and season definition, Multiple Dog Ownership Licence, default rule) and confusion issues (dog access rules) that were identified through the Findings Report.

### Mitigation

To improve public understanding of dog management and dog access rules, council staff could utilize various communication approaches, including making improvements to the dog walking website and signage.

## Option 2: Amend the Policy and Bylaw

The findings report identified the following options to improve the design and content of the Policy and Bylaw:

- amend the Policy and Bylaw framework into themes and presenting the information in schedules in a consistent format (Figure 5)
- reduce confusion that could improve voluntary compliance and enforcement action
- remove duplication between the Policy and Bylaw, by removing Schedule 1 and 2 from the Bylaw, resulting in an improved mechanism for local boards to make amendments to their local dog access rules
- refer to the Code of Welfare to promote the welfare of dogs
- extend the ability to make temporary changes to dog access rules to protect Auckland's natural environmental, flora and fauna
- increase council's enforcement ability to ensure dogs that are uncontrolled more than once over a 12-month period are neutered
- create regionally consistent rules for dog access decision making, time and season definition, the default rule and the multiple dog ownership process
- provide an incentive for owners of dogs determined to be menacing by deed, to undertake a dog obedience course to reduce the classification of the dog
- provide clarity on what privately owned public spaces are covered by the schedule of access rules.
- extend the ability to make temporary changes to dog access rules to protect Auckland's natural environmental

This option would retain the status quo Policy and Bylaw intent. A more detailed assessment of each of the potential amendments is contained in Appendix 1.

### Implementation

Implementation, enforcement and compliance would be the same as under Option 1. Under this option the decision-making framework for dog access rules is amended, and is further explained in Appendix 1.

### Pros and cons

#### Pros

- meets legislative requirements under the Dog Control Act 1996
- amended content would reflect the current and future needs of dog management in Auckland, and achieve the Policy and Bylaw intent
- responds to stakeholder feedback that indicated that dog management is complex, difficult to understand, and requires regionally consistent dog rules
- aligning dog access rules to a regional standard would reduce long-term costs of sign management
- easy to replicate the information into web-friendly content
- a modified framework places content into themes and areas that make it easier to understand and allows the document to become more user-friendly
- the framework removes duplication of Schedule 1 and 2 from the Bylaw to improve public understanding

- would streamline the process for amending local dog access rules in the future by removing the need to go to Governing Body to approve content changes in the bylaw as well.

**Figure 5: Amend Policy framework, content and Bylaw (Option 2)**

<b>The Dog Control Act 1996</b>	
<b>Policy objective</b>	
<p style="text-align: center;"><b>Responsible dog ownership</b></p> <ul style="list-style-type: none"> <li>✓ Dog welfare</li> <li>• Registration</li> <li>• Responsible dog ownership</li> <li>• Bylaws related to responsible dog ownership, number of dogs per walker</li> <li>• Enforcement of registration, de-sexing uncontrolled dogs, seize and hold dogs</li> </ul>	<p style="text-align: center;"><b>Dog access principles</b></p> <ul style="list-style-type: none"> <li>✓ General criteria, including temporary provisions</li> <li>✓ Time and season definition</li> <li>✓ Off leash and designated dog exercise areas</li> <li>• Bylaws related to access principles and access rules</li> </ul>
<p style="text-align: center;"><b>Classification of dogs and their owners</b></p> <ul style="list-style-type: none"> <li>• Dangerous dogs</li> <li>✓ Menacing dogs</li> <li>• Classification of owners</li> <li>• Enforcement to ensure compliance with classifications</li> <li>✓ Bylaws related to the classification of owners of dangerous and menacing dogs</li> </ul>	<p style="text-align: center;"><b>Minimising nuisance</b></p> <ul style="list-style-type: none"> <li>• Dog safe communities</li> <li>• Dog safe access</li> <li>• Community education</li> </ul>
<b>Schedule 1: Default dog access rules*</b>	
<b>Schedule 2: Local board area dog access rules*</b>	

*\*information not duplicated in the Bylaw*

*✓ indicates amendment to Policy content*

### Cons

- may result in less oversight and awareness of local access rules by the governing body
- High level of uncertainty about public satisfaction with the amended approach may result in pressure on local boards and the governing body to amend the rules
- amendments impacting access rules at a regional level will incur additional costs for dog signage in the short term

### Risks

- there is a risk that local boards may seek variations of the amended time and season definition. If these were approved by the council, this would result in creating the same inconsistency and confusion that currently exists
- some local boards have recently completed the review of their local dog access rules (2017). There is a reputational risk that the council is relitigating decisions that have recently been made and have already gone through public consultation

- the public may perceive dog management approach to have significantly changed, when in most cases the status quo is maintained.

## **Mitigation**

- communicate the benefits of a regionally consistent time and season definition to all stakeholders, including the public (both dog owners and non-dog owners). These benefits include improved:
  - public understanding
  - voluntary compliance with dog access rules
  - ability to enforce dog access rules on local and regional beaches and foreshores for Animal Management Officers.
- ensure that amendments made to the Policy are clearly communicated to the public and local boards, so they receive correct information to prevent any unwarranted negative publicity about the review
- use communication approaches to emphasize that the outcomes and intent of the Policy and Bylaw remain largely unchanged.

## **Options assessment**

### **Preliminary legal assessment**

Under section 156 of the Local Government Act 2002, a local authority must determine whether a bylaw is in the most appropriate form to address the perceived problems and should not be inconsistent with the New Zealand Bill of Rights Act 1990.

Recommendations for the appropriate form for the bylaw to take are addressed in the issues presented below.

### **New Zealand Bill of Rights Act 1990 assessment**

Under the Local Government Act 2002, a bylaw review must consider whether a bylaw has any implications under the New Zealand Bill of Rights Act 1990. Legally, a bylaw cannot be inconsistent with this Act. The existing Bylaw could potentially limit the freedom of movement under the New Zealand Bill of Rights Act 1990 (section 18), which states that

- everyone lawfully in New Zealand has the right to the freedom of movement and residence in New Zealand

In Options 1 and 2, the Bylaw identifies public spaces in Auckland where dogs are prohibited and allowed (under control, either on or off leash). Staff consider the existing Bylaw limits the freedom of movement for dog owners, however, this limit is considered justifiable, given the approach adopted in the Policy. The general principle of the Policy is to integrate dogs into society. Some public spaces are permanently prohibited for dogs due to environmental protection, safety for children, and to minimise the harm between dogs and other people. There are many places within Auckland where dogs are allowed to be (either under control on leash or off leash).

### **Assessment against criteria**

Staff have completed a comparative assessment against the criteria of effectiveness and efficiency. Effectiveness refers to how well the Policy and Bylaw address the current problem. Efficiency refers to how easy the Policy and Bylaw are to implement, including the decision-making process, enforcement powers and public understanding of their obligations and dog access rules. Table 1 presents a summary of the assessment.

These reflect the objectives of the regulatory response to the problem identified above:

1. ensure legislative requirements are being met under the:
  - Dog Control Act 1996
    - specifications for policy requirements
    - issues that may be covered in a bylaw
  - Local Government Act 2002 (section 155)
    - determine the bylaw is the most appropriate way of addressing the perceived problem
    - the bylaw is the most appropriate form of bylaw
    - ensuring any bylaw does not give rise to any implications or is inconsistent with the New Zealand Bill of Rights Act 1990
2. maintain opportunities for owners to take their dogs into public places
3. minimise the harm caused by dogs

The review should also ensure that the Policy and Bylaw are clearly and effectively communicated to enable voluntary compliance with dog management and dog access rules is possible.

**Table 1: Summary of assessment of options against criteria**

	Effectiveness of dog management	Efficiency of dog management
<b>Option 1:</b> Status quo Policy and Bylaw	Status quo meets legislative requirements, but does not address all current and future dog management issues. This includes standardising dog management rules across the region, protecting flora/fauna and ensuring dogs are under control	Status quo is difficult to implement and has resulted in regional inconsistencies which are costly and difficult to understand and enforce
<b>Option 2:</b> Amend Policy content, framework and the Bylaw	Option 2 meets legislative requirements, and reorganises the content of the Policy and Bylaw to improve the accessibility of information. This option addresses emerging issues related to dog management and will standardise dog rules across the region	Option 2 is more efficient than status quo because it: <ul style="list-style-type: none"> <li>• improves regional consistency</li> <li>• improves public understanding of what is expected from dog owners and the council</li> <li>• improves enforcement</li> <li>• removes duplication between the Policy and Bylaw</li> </ul>

## Analysis and recommendation

Based on analysis against assessment criteria and the pros and cons of each option, staff recommended Option 2: amend the Policy and Bylaw, because it:

- improves the status quo by reorganising the content of the Policy and Bylaw into a more user-friendly format
- creates a regionally consistent approach to dog management in terms of:
  - time and season definition
  - default rules
  - multiple dog ownership licenses

- removes duplicates between the Policy and Bylaw, which will improve the process for local boards to make amendments to local dog access rules
- extends the opportunity to protect flora and fauna from harm caused by dogs
- promotes responsible dog ownership amongst owners of menacing dogs to undertake an education course.

Option 1 (status quo) is somewhat effective, but does not address all the current issues and is not efficient at implementing aspects of dog management resulting in variation of rules across Auckland.

**APPENDIX 1:  
Proposed amendments for the Auckland Council Policy on Dogs 2012 and  
Dog Management Bylaw 2012**

<b>DOG WELFARE</b>
<b>CURRENT STATE</b>
<p><b>Auckland Council Policy on Dogs 2012:</b> Proactively promote the welfare of dogs</p> <p><b>Dog Management Bylaw 2012:</b> Not required in the Bylaw</p>
<b>STATUTORY OBLIGATION</b>
<p>The following sections of the Dog Control Act 1996 relate to dog welfare: Section 6(2)(a) any territorial authority may, — either singly or jointly with any other territorial authority or any other organisation or group or body of persons (whether incorporated or not) undertake, promote, and encourage the development of such services and programmes as it considers desirable to promote responsible dog ownership and the welfare of dogs.</p> <p>Section 54, the owner of any dog shall -</p> <ul style="list-style-type: none"> <li>• ensure that the dog receives proper care and attention and is supplied with proper and sufficient food, water and shelter</li> <li>• ensure that the dog receives adequate exercise.</li> </ul> <p>Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding \$5,000.</p> <p>The Dog Control Act 1996, Animal Welfare Act 1999, Code of welfare for dogs, and Health Act 1956 provide specific provisions to address problems related to the welfare of dogs and nuisance.</p>
<b>ISSUE IN 2011</b>
<p>Four of the seven previous territorial authority bylaws regulated aspects of shelter. Two regulated nuisance caused by dogs and one regulated the welfare of dogs in general. The Dog Control Act 1996 and the Animal Welfare Act 1999 and the Animal Welfare (Dogs) Code of Welfare 2010 (the Code) address problems related to the spread of contagious diseases and neglect of owners to treat an ill dog. Dog welfare accounted for a tenth of all dog complaints to the council, with twice that number estimated to be received by the Auckland SPCA.</p>
<b>OUTCOME SOUGHT IN 2011</b>
<p>To promote dog welfare without duplicating information from other acts. Referencing welfare requirements were not necessary in the Bylaw as they are already covered by other acts mentioned above.</p>
<b>IMPLEMENTATION</b>
<p>Animal management officers established a memorandum of understanding (MOU) to work with the Auckland SPCA. The purpose of this MOU is to clarify roles and responsibilities for dogs in Auckland. Under this working relationship, staff can align their efforts and resources to respond to requests from the public. The SPCA's core function involves treating injured or sick animals, including dogs.</p>
<b>ISSUE NOW</b>
<p>Promoting the welfare of dogs is an important part of being a responsible dog owner and ensures that owners are meeting their obligations under the Dog Control Act 1996.</p>

In 2016/2017 Animal management officers responded to 533 complaints about dog welfare. While the current policy promotes the welfare of dogs, it may be unclear to the reader what is meant or required.

#### **OUTCOME SOUGHT**

Strengthen the definition and clarity of what is meant by promoting the welfare of dogs, by referencing the existing code of welfare from the Animal Welfare Act 1999. This ensures that dog owners have a clear understanding of what is meant by promoting the welfare of dogs. No additional requirement is necessary under the Bylaw as animal management officers can use the existing acts to infringe and take enforcement action.

#### **EVALUATION**

The original intent of the policy is to promote the welfare of dogs. The current Policy could clarify what is meant by the welfare of dogs. These are standards that are already commonly referenced by SPCA and animal management officers. The working agreement with SPCA ensures that aspects of dog welfare can be addressed by maximising available resources.

#### **OPTIONS**

- **Option 1: Status quo**
- **Option 2: Reference the code of welfare from the Animal Welfare Act 1999**
- **Option 3: Remove the reference to promoting the welfare of dogs, as it is already covered by other regulations**

#### **RECOMMENDATIONS**

Staff recommend referencing the Code of Welfare for Dogs, within the Policy's statement, *promote the welfare of dogs*.

This option provides greater alignment to the Code. The Code is already used by animal management officers and staff at the SPCA. Referencing the Code would also allow dog owners to gain a better understanding of what is required to look after their dog(s) adequately.

References to the Code, would require the council to be aware of any future changes made to the Code. The Code may be reviewed at any time, it was last updated in 2010. This recommended amendment only impacts the Policy, and does not require an assessment against the New Zealand Bill of Rights 1990.

## ENVIRONMENTAL PROTECTION

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

(3A) General criteria for dog access rules in all public places

(d) provide for temporary changes to dog access rules (such as for events, dog training, wildlife protection, pest control)

#### **Dog Management Bylaw 2012:**

(10) Temporary changes to dog access rules (schedules)

(1) The council may make temporary changes to Schedules 1 and 2 in relation to–

(a) leisure and cultural events (including dog friendly events)

(b) dog training

(c) threatened or 'at risk' protected wildlife vulnerable to dogs

(d) pest control in any park and/or beach

(e) events of a comparative nature to sub clause (a) to (d) inclusive.

### STATUTORY OBLIGATION

Under Section 5 of the Dog Control Act 1996, owners are obligated to take all reasonable steps to ensure that the dog does not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife.

Dogs that attack or threaten the safety of protected wildlife may be subject to a variety of consequences under the Dog Control Act 1996, including: being classified as dangerous or menacing by deed. Dogs that cause destruction or are in the vicinity of protected wildlife may be seized or destroyed under the Act.

### ISSUE IN 2011

Protecting wildlife is an important aspect of managing the harm caused by dogs. This has been emphasized through the current Policy and Bylaw.

### OUTCOME SOUGHT IN 2011

Council adapted a forward-thinking approach when considering changes to dog access rules.

### IMPLEMENTATION

Council staff use the Policy and Bylaw to make temporary changes to dog access rules, particularly to protect new areas where vulnerable wildlife have been identified.

### ISSUE NOW

Protecting wildlife and natural environment continues to be an important aspect of dog management in Auckland.

### OUTCOME SOUGHT

Extending temporary provisions to dog access rules to flora would further protect Auckland's environment. This would assist in regional environmental issues such as protecting against Kauri Dieback.

### EVALUATION

The current provision allows for temporary changes to made to dog access rules for the protection of vulnerable wildlife. Allowing for temporary changes to be made to dog access rules is an important lever for council to ensure it can adapt to Auckland's changing nature environment and habitat. This is aspect of the Policy and Bylaw are still required and should consider the extension to protect flora. This extension would ensure that council has the appropriate tools to change dog

access rules in the future for any additional regional concerns that threaten Auckland's natural environment, such as Kauri Dieback.

### OPTIONS

- **Option 1: Status quo**
  - retain Auckland Council's ability to temporary change dog access rules for the protection of vulnerable wildlife
- **Option 2: Extend temporary provisions to change dog access rules to include the protection of flora**
  - Extend Auckland Council's ability to protect the region's natural environment

### RECOMMENDATIONS

Staff recommend extending environmental protection to flora.

This would allow local boards and mana whenua to work with biodiversity staff to identify areas that require protection from dogs.

This provision has implications with regards to the Freedom of Movement under the New Zealand Bill of Rights Act 1990, as it limits spaces where owners can exercise their dogs. Staff believe that this limit is justifiable as there are many places within Auckland where dogs can be exercised (either under control on or off leash).

## NEUTERING REQUIREMENT FOR UNCONTROLLED DOGS

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

(5) Make a bylaw that require owners:

To neuter their dog if the dog is uncontrolled more than once in a 12-month period, if required by the council and with a right of objection

#### **Dog Management Bylaw 2012:**

(14) Requirement to neuter uncontrolled dog

(1) The council may require the owner of a dog to cause that dog to be neutered if that dog has not been kept under control on more than one occasion within a 12-month period.

(15) Objection to requirement to neuter uncontrolled dog

(1) if a dog is required to be neutered under clause 14, the owner of that dog –

- a) may, within 14 days of receiving the notice, object in writing to the council in regard to the requirement; and
- b) has the right to be heard in support of the objection

(2) the council when considering an objection under subclause (1) may uphold or rescind the requirement, and in making its determination must have regard to –

- a) the evidence which formed the basis for the requirement;
- b) the matters relied upon in support of the objection; and
- c) any other relevant matters.

### STATUTORY OBLIGATION

Under section 20(1) of the Dog Control Act 1996, any territorial authority may, in accordance with the Local Government Act 2002, make bylaws for requiring the owner of any dog (being a dog that, on a number of occasions, has not been kept under control) to cause that dog to be neutered.

### ISSUE IN 2011

Entire dogs (not de-sexed) are more likely to be involved in the top three dog complaints (roaming, barking, attack/aggression and in particular roaming and attack/aggression incidents).

- 70% of roaming were entire dogs
- 59% of attacks/aggression were from entire dogs

In 2011 five of the seven bylaws enabled Auckland Council to require a dog to be neutered either where the dog had not been kept under control once (Northshore), on more than one occasion (Manukau), on a number of occasions (Rodney, Waitakere) or on three or more occasions (Papakura).

### OUTCOME SOUGHT IN 2011

Mandatory neutering of dogs uncontrolled on more than one occasion. This option takes a strong preventative stance.

### IMPLEMENTATION

The Bylaw defines under control as meaning that the owner is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means.

## ISSUE NOW

- While uncontrolled dogs may not necessarily pose a threat, it is possible for them to roam, cause nuisance, bite and produce unwanted offspring. In 2016/2017, Animal Management Officers reported the following:
  - roaming dogs are within the top three complaints received from the public
  - a total of 2,002 infringements were given out for failing to keep a dog under control
  - 802 uncontrolled dogs were required to be neutered.
- Stakeholders expressed concern that the definition of 'under control' is very subjective and could have different meanings for dog owners, the public and enforcement officers.
- Animal Management officers expressed concern that there is no ability to ensure neutering requirements have been met. There are no penalties or consequences stated in the Bylaw, that raises concerns.
- Amongst dog-owners and non-dog owners, close to 70 per cent agreed that if a non-neutered dog wanders away from a property twice or more, then the council should make the owner neuter the dog (Ipsos, 2018).

## OUTCOME SOUGHT

To provide a practical and enforceable approach to address the neutering requirement for those dogs who have found to be uncontrolled on more than one occasion in the past 12 months.

## BYLAW EVALUATION

Addressing uncontrolled dogs in Auckland is still an issue and is best addressed through the Bylaw. The Bylaw is the best approach to address this problem, however Animal Management Officers perceive a need for additional enforcement ability to ensure compliance with this aspect of the Bylaw.

While the current process allows for Animal Management Officers to issue an infringement to an owner who is in breach of the bylaw, it still does not require the owner to neuter dog. It is unreasonable for council to continue to issue daily infringements until the owner has complied.

Council's legal staff have advised that it is not feasible to seize the dog or hold the dog if the owner has not complied with the neutering requirement.

## OPTIONS

- **Option 1: Status quo**
- **Option 2: add an explanatory note in the Bylaw to describe the enforcement mechanism**
  - this would highlight that failure to comply with clause 14 would result in a breach of the Bylaw, and subject to a fine of \$300.

## RECOMMENDATIONS

Staff recommend Option 2, to include an explanatory note in the Bylaw to describe the enforcement mechanism around clause 14.

## MULTIPLE DOG OWNERSHIP LICENCE

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

(5) Make bylaws that require a dog owner -

(b) To hold a licence if there is more than one dog (other than working dogs) kept on any premises –

(i) less than 600m<sup>2</sup> within the urban or living environment zone of the Auckland Council District Plan (Waitākere Section) 2011

(ii) within any zone of the Auckland Council District Plan (Isthmus Section) 2011

(iii) less than 2 hectares in the Great Barrier Local Board area (excluding multiple dogs lawfully kept immediately prior to 1 June 2009)

(iv) within any zone (other than rural or coastal) of the Auckland Council District Plan (Franklin Section) 2011

(c) To hold a licence if there is more than two dogs (other than working dogs) kept on any premises –

(i) within an urban residential zone or activity area (including any special zone apart from the Special 8 (Weiti Forest Park) Zone) or Countryside Living (Town) Activity Area of the Auckland Council District Plan (Rodney Section) 2011

(ii) within any zone of the North Shore Section and Papakura Section of the Auckland Council District Plan 2011

(iii) less than 2000m<sup>2</sup> within an urban or living environment zone of the Auckland Council District Plan (Waitākere Section) 2011

(iv) on Rakino Island or within the urban area of Waiheke Island

(v) within any zone of the Auckland Council District Plan (Manukau Section) 2011 other than Rural 1, 2, 3 and 4, Future Development Stage 1 and Stage 2, Flat Bush Countryside Transition, Mangere - Puhinui Heritage, and Mangere - Puhinui Rural

#### **Dog Management Bylaw 2012:**

(12) Limiting the number of dogs that may be kept on any premises

(1) Except as provided in subclause (2), no owner may keep any dog over 3 months of age (other than a working dog) on –

(a) any premises in Schedule 3 on which any other dog over 3 months of age (other than a working dog) is kept for more than 14 consecutive days

(b) any premises in Schedule 4 on which any 2 other dogs over 3 months of age (other than working dogs) is kept for more than 14 consecutive days.

(2) Subclause (1) does not apply if –

(a) allowed by a licence

(b) an application for a licence has been made within 14 days of that dog first being kept on that premises.

(3) Subclause (1) applies whether or not the dogs on the premises have the same owner, and any application under subclause (2)(b) is a joint application by all the owners on the premises.

Schedule 3 and 4 state the legacy bylaw rules for multiple dog ownership as listed in the Policy.

### **STATUTORY OBLIGATION**

Under section 10 of the Dog Control Act 1996, a territorial authority must adopt a policy on dogs. This policy must specify the nature and application of any bylaws made or to be made.

Under section 20 of the Dog Control Act 1996, a territorial authority may make a bylaw to limit the number of dogs that may be kept on any land or premises.

### **ISSUE IN 2011**

- Owning more than one dog takes more time, money and competence from the owners.
- Concerns with multiple dog households revolve around barking, odour, waste disposal, welfare of dogs, and pack mentality behaviours that are common compared to single dog households.
- Dog complaints involving more than one dog were low, however the number of dog complaints involving at least one dog that resides on a property containing multiple dogs was relatively high (33%), and over representative of the number of dogs kept on a property.
- In 2011, 14,241 individuals owned multiple dogs.

### **OUTCOME SOUGHT IN 2011**

To create an effective, regionally consistent approach to multiple dog ownership in Auckland.

### **IMPLEMENTATION**

- Previous territorial authority boundaries do not align with current local board boundaries, which has resulted in some local board areas with two sets of rules.
- Operating under legacy bylaws rules, multiple dog ownership has resulted in variation across the region based on:
  - local board area
  - property zoning
  - minimum number of dogs (more than one, more than two)
- Dog owners apply for a Licence at a cost of \$43, which considers the property size, breed of dog, and consent from neighbours.
- Animal Management Officers undertake a property inspection to ensure the premise is equipped for multiple dogs.

### **ISSUE NOW**

- A majority of properties are home to one dog (61,112), however a total of 15,532 addresses have two dogs registered to them, and 2,971 addresses have three or more dogs registered.
- There are approximately 5,152 Multiple Dog Ownership Licences issued by council, however these numbers are accurate due to:
  - the licence being attached to the property. This means that an owner may no longer own multiple dogs or any dogs, but still hold a licence
  - owners not being aware that a Multiple Dog Ownership Licence is required
- This discrepancy between the number of multiple dogs registered to one address and the approximate number of Multiple Dog Ownership Licences indicates issues with the current system. For the purpose of this report, it is more accurate to use the number of dogs registered to an address than the number of licences issued.
- Variation in legacy bylaws have resulted in an inconsistent regional approach with regards to obtaining a Multiple Dog Ownership Licence.

### **OUTCOME SOUGHT**

Develop a regional standard approach to the multiple dog ownership.

## EVALUATION

There is still an issue to manage multiple dogs to prevent future nuisance and ensure the welfare of dogs. The bylaw requires improvement in terms of regional consistency and improved compliance. The current bylaw allows for various rules to be applied across the region (i.e. requiring a licence for more than one dog or more than two dogs depending on the local board and zoning of property). The current Policy and Bylaw is not clearly written, some local boards have two sets of rules which can be difficult to interpret.

As part of this review, feedback was sought from various stakeholders, this includes;

- if variation exists, it should be considered for rural verses urban properties
- application requirements which should consider: property fencing, proof of good dog ownership, size of property, breed of dogs, and size of dogs.
- A public survey of dog owners and non-dog owners indicated a preference for council to require a licence for more than one dog
- A workshop with the Regulatory Committee indicated a preference for a multiple dog ownership licence for more than one dog
- Informal feedback from local board workshops indicated that a majority of favoured a multiple dog ownership licence for more than two dogs. It was indicated that consideration should also be given to urban/rural zones, and the additional cost/burden of the application on dog owners.
- Feedback from Animal Management staff has indicated that homes are typically suitable for two dogs and that a greater number of issues arise when owners obtain three or more dogs. Officers have not indicated a large number of issues with rural properties and multiple dog ownership, therefore staff do not recommend a Multiple Dog Ownership Licence requirement. Pet ownership, including dogs in high density is often handled by body corporates or landlords who would decide if a property is suitable for pets. Dog owners are aware of this aspect of the bylaw, however variation in rules can make it difficult for the public understand what is required from them.
- Cost to council to complete one Multiple Dog Ownership Licence is approximately \$81.50, however are subject to change as they are under review.

Variations in rule make this part of this bylaw unfit for the future. The bylaw does not conflict with New Zealand Bill of Rights

## OPTIONS

- **Option 1: Status quo**
  - remain with current approach, variation of rules across the region to own multiple dogs.
- **Option 2: More than one dog**
  - amend the Bylaw to require a Multiple Dog Ownership Licence for more than one dog in residential zones, as described by the Unitary Plan
  - Of those addresses with two registered dogs, this would impact 56 per cent of addresses to require a Multiple Dog Ownership Licence.
- **Option 3: More than two dogs**
  - amend the Bylaw to require a Multiple Dog Ownership Licence for more than two dogs in residential and business zones.
  - Of those addresses with two dogs, 44 per cent of addresses would no longer require a Multiple Dog Ownership Licence.
- **Option 4: in addition to option 2 or 3, require a different rule for property with rural zoning**

- (a) require a Multiple Dog Ownership Licence for three or more dogs in properties zoned as Rural and Coastal Settlement (as in the Unitary Plan).
  - **Option 5: in addition to option 2 or 3, provide an exemption to registered working dogs**
    - dog owners who have working dogs, as defined by the Dog Control Act 1996 are exempt
    - there is a total of 2575 registered working dogs in Auckland, with the highest proportion residing in Rodney and Franklin.
  - **Option 6: Revoke**
    - remove the requirement for dog owners to obtain a multiple dog ownership licence.
- \*disability assist and working dogs are exempt from multiple dog ownership*

#### **RECOMMENDATION**

Staff recommend Option 3, a licence requirement for more than two dogs in urban zones, as defined by the Unitary Plan. This would assist in achieving the outcome, while reducing compliance costs to dog owners and council.

Note: dog ownership in high density areas of the city are covered by body corporates and landlords.

## DECISION MAKING FRAMEWORK FOR DOG ACCESS RULES

### CURRENT STATE

#### **Auckland Policy on Dogs 2012:**

General criteria for dog access rules in all public places

- a) be consistent with the policy and principles on dog access contained in this Policy
- b) ensure there is at all times a default dog access rule
- c) enable the person in charge of any place not under the control of council to determine the dog access rule for that place
- d) provide for temporary changes to dog access rules (such as for events, dog training, wildlife protection, pest control)
- e) be consistent with statutory exemptions for disability assist and working dogs
- f) use the summer time and season wherever a time and season rule is deemed appropriate to manage the safe interaction between dogs with their owners and people without dogs\*

*\*time and season definition is further described in the following issue note.*

Specific rules are also listed in Schedule 1 and 2 of the Policy.

#### **Dog Management Bylaw 2012:**

Regional general dog access rules are duplicated in Schedule 1 and 2 of the Bylaw. Schedule 1 includes dog access rules on playgrounds, sports surfaces, roads, private ways and council controlled car parks, boating areas, council cemeteries, camp grounds and holiday parks, as well the default dog access rules. Schedule 2 includes a detailed list of local dog access rules for reserves, parks, and local beaches, presented by local board area. Where there is a Regional Park in a local board area, the rules for the regional park are included within the rules for that local board.

### STATUTORY OBLIGATION

Under section 10 of the Dog Control Act 1996, a territorial authority must adopt a policy that:

10(3)(b) shall identify any public place shall identify any public places in which dogs are to be prohibited, either generally or at specified times, pursuant to a bylaw made under section 20(1)(a);

(c) shall identify—

(i) any particular public places; and

(ii) any areas or parts of the district,—in which dogs (other than working dogs) in public places are to be required by a bylaw made under section 20(1)(b) to be controlled on a leash; and

(d) shall identify those areas or parts of the district in respect of which no public places or areas are to be identified under paragraph (b) or paragraph (c); and

(e) shall identify any places within areas or parts of the district specified in paragraph (c)(ii) of this subsection that are to be designated by a bylaw under section 20(1)(d) as dog exercise areas in which dogs may be exercised at large;

### ISSUE IN 2011

Views of stakeholders at the time indicated a preference for local board decision-making on dog access rules. All local boards felt that issues regarding access to public places should be dealt with by the board. The issue was whether local boards should be delegated the power to decide dog access rules in their local board area.

### OUTCOME SOUGHT IN 2011

To create a combined region-wide and local board decision-making framework. This allows local boards to make decisions on local dog access rules once a regional-wide framework and local board delegations are established.

This delegation system allowed a local board to make decisions on local dog access rules.

Delegation criteria includes decisions which:

- relate to a public place within the local board area (excluding any regional park)
- are consistent with policy, principles and criteria for making dog access rules
- are not inconsistent with any decision of the Governing Body (including any region-wide dog access rule or decision to not have a type of rule).

#### **IMPLEMENTATION**

The current form of the Schedule of dog access rules is also presented in an inconsistent way, including format, language and use of a default rule, which has added to confusion in interpreting the rules. These complexities have made it difficult for the public to understand and have resulted in confusion. The Policy and Bylaw were adopted by 17 local boards, who undertook a review of their dog access rules. Currently, there are approximately 41 designated dog exercise areas throughout Auckland, that are not evenly geographically spread throughout the region.

#### **ISSUE NOW**

- Access rules are presented inconsistently in the Policy and Bylaw within Schedule 2 (local dog access rules)
- Duplication of information in the Policy and Bylaw makes the two documents confusing for the reader

#### **OUTCOME SOUGHT**

Dog access rules that are easy for both the public and council enforcement officers to understand and comply with.

#### **EVALUATION**

The original intent of the decision-making framework was to allow for local decision making in local dog access rules. However, this approach has resulted in a complex set of rules. Access rules that are easy to understand and access to designated dog exercise areas are still required for Auckland. This approach helps balance the needs and minimising the harm between dog owners and other Aucklanders and may improve voluntary compliance with dog access rules.

Legislation does not require specific access rules to be contained within the Bylaw. Retaining the Schedule within the Policy only will mean that specific local dog access rules can be amended by the local board (through the special consultative procedure) without the Governing Body having to ratify each decision.

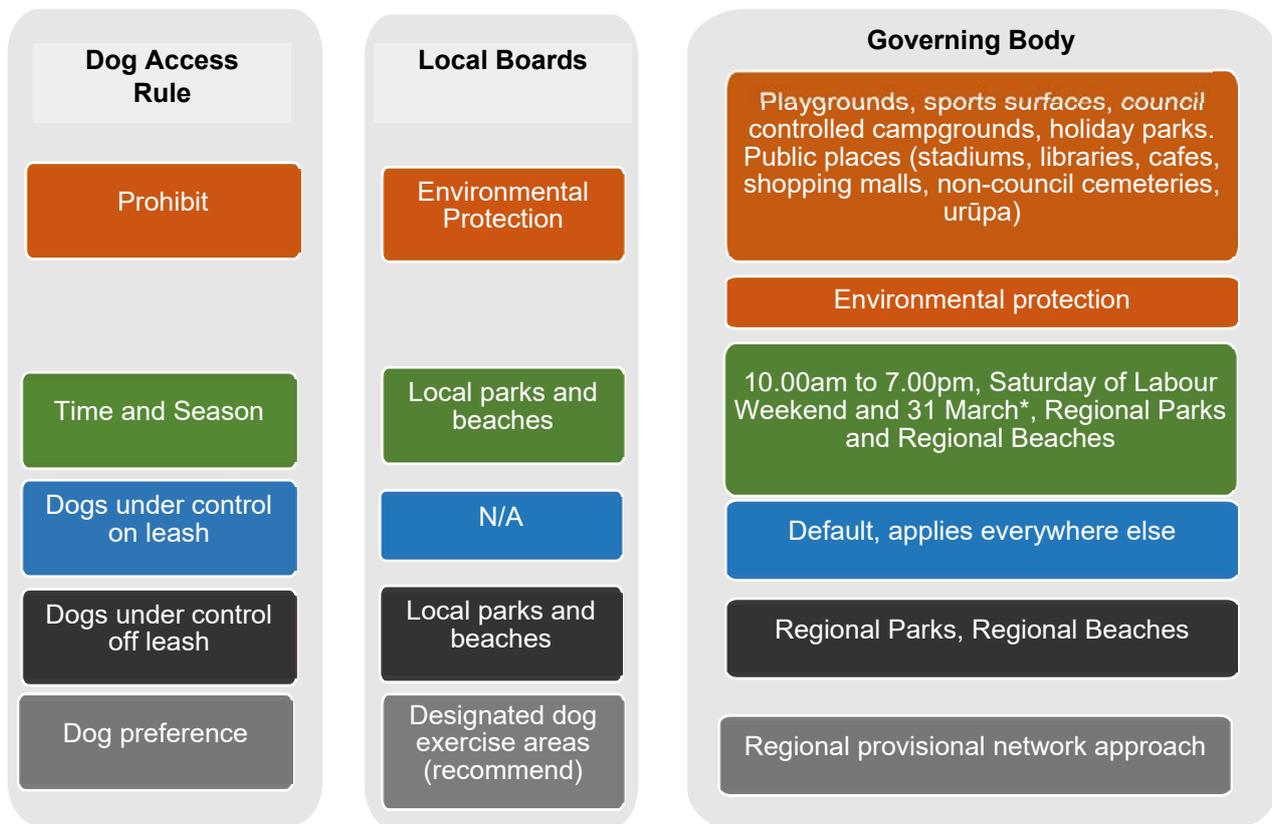
A workshop with the Regulatory Committee favoured an amended decision-making framework for dog access rules (see below).

Informal feedback from local boards indicated a concern for the Governing Body having too much input on local decisions.

#### **OPTIONS**

- **Option 1: Status quo**
  - retain the same decision-making framework

- **Option 2: Amend the decision-making framework to create regionally consistent approach for dog access rules (see below)**



*\*see time and season definition issue for additional detail and options*

In this framework the regional default dog access rule becomes under control on leash. This would not change local dog access rules, but would change the way information is presented in Schedule 2 for some local boards. Prohibited areas, off leash areas, and designated dog exercise parks would be listed in the schedule of access rules.

The role of local boards would be as follows:

- work with council staff to identify areas where dogs should be prohibited for environmental protection
- decide which local beaches, foreshores, and parks require:
  - dogs to be prohibited at all times
  - dogs to be under control off leash at all times.
  - management through the use of the time and season definition

recommend to the Governing Body which local parks could be developed into a designated dog exercise area to improve the availability of off leash dog areas.

### RECOMMENDATIONS

Staff recommend Option 2 amending the decision-making framework. This approach creates a regionally consistent approach that would improve voluntary compliance, and enforcement efforts.

This framework would require additional communications to ensure that local boards understand their role through the process, and the public understand that no changes are being made to local dog access rules through this amendment.

## TIME AND SEASON DEFINITION

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

(3A) Beaches and adjoining parks 10.00am to 5.00pm for specified beaches and specified adjoining parks between the Saturday of Labour Weekend and 1 March.

The type of dog access (i.e. prohibited, on-leash, off-leash or dog exercise area) and winter times (if any) is determined by the relevant authority in accordance with the general criteria for dog access rules stated in the Policy.

The time and season definition does not apply to any island in the Hauraki Gulf, including Waiheke, Rakino and Great Barrier islands. For the avoidance of doubt, the standard creates three-time slots in summer.

Where a time and season rule applies (location), the type of dog access within each time slot (i.e. prohibited, on-leash, off-leash or dog exercise area), and whether there are winter times, is determined by the relevant authority – Local Boards or the Parks, Recreation and Heritage Forum through the Regional Development and Operations Committee. The type of dog access is not required to change between each time slot.

### STATUTORY OBLIGATION

Under Section 10 of the Dog Control Act 1996 refer to a territorial's responsibility around identifying dog access rules and the principles that should guide dog access:

(10)(3) Every Policy adopted under this section -

(b) shall identify any public places in which dogs are to be prohibited, either generally or at specified times, pursuant to a bylaw made under section 20(1)(a); and

(c) shall identify—

(i) any particular public places; and

(ii) any areas or parts of the district,— in which dogs (other than working dogs) in public places are to be required by a bylaw made under section 20(1)(b) to be controlled on a leash;

(d) shall identify those areas or parts of the district in respect of which no public places or areas are to be identified under paragraph (b) or paragraph (c)

### ISSUE IN 2011

A time-based dog access rule was created to manage conflict between dogs and people (e.g. popular summer beaches). Feedback received at the time indicated a preference for region wide consistency, but also wanted to retain local decision making.

### OUTCOME SOUGHT IN 2011

A time and season definition that would balance the needs of both dogs, their owners and others at Auckland's parks, beaches and foreshores.

### IMPLEMENTATION

Of the 21 local boards, 14 have identified the need of a time and season definition on their beaches and foreshores. Through the local dog access review process, most of these local boards requested a variation of either the time or season, or both. Requests required approval from the Governing Body which was approved each time.

### ISSUE NOW

- Variations in time and season definition and the complexity of dog access rules has resulted in public confusion and have become difficult to enforce for Animal Management Officers.
- Complex dog rules, including the variations in time and season have resulted in over 140 different dog signs.
- In November 2016, the Governance Framework Review highlighted the consequences of delegating dog access responsibilities to local boards. The review stated that a preferable model would be for the governing body to make the decisions (with local board input) about the time of day and seasons where access is permitted, and that the local board determine the nature of access for specific parks and beaches.

### OUTCOME SOUGHT

A regionally consistent application of the time and season definition

### EVALUATION

The intent of the time and season definition is to minimise the conflict between dogs and their owners and other Aucklanders at busy beaches, foreshores and parks. However, the original definition was not adequate for areas, as many local board areas had requested a different time/season to address local variations. These local variations have resulted in confusion from the public, making the definition inefficient. In addition, some have used the time and season definition as a means for the protection of vulnerable wildlife, which is not the intent of the definition. An assessment of season and access type identified the following:

- **Season:** A majority of local boards used Labour Weekend as the marker of the beginning of summer and used a later summer date, either 31 March, Easter Monday or daylight savings
- **Time:** A majority of local boards used the 10am start time, and a later evening time ranging from 6:00pm to 9:00pm. Fifty percent used 7:00pm
- **Access type:** a majority of local boards prohibit dogs during the day time hours, and have an off-leash rule during the evening/morning hour.

To align with the current definitions of time and season, staff propose the following time and season definition to manage the conflict between dogs and other users at beaches, foreshores and parks: 10am to 7pm, Saturday of Labour weekend to 31 March.

- A workshop with the regulatory committee in April 2018, indicated support for a regionally consistent time and season rule and supported the proposed definition
- A public survey indicated that dog owners and non-dog owners were evenly split when asked if they favoured regionally consistent rules or local dog access rules

Informal feedback collected from local board workshops indicated a majority supported a regionally consistent rule, and the proposed time and season definition. Local boards also indicated a concern around the impacts of time and season and protection of wildlife, and the Governing Body having too much input in local decisions.

### OPTIONS

- **Option 1: Status quo**
- **Option 2: Amend the time and season definition to 10am to 7pm from the Saturday of Labour Weekend to 31 March**
- **Option 3: Amend the time and season definition to 10am to 7pm, using daylight savings as the marker of the summer season**

#### **RECOMMENDATIONS**

Staff recommend option 2, amending the time and season definition to 10am to 7pm, from the Saturday of Labour Weekend to 31 March.

The change in definition would incur additional costs to council in the short term for additional signage to be developed and installed. Where the time and season definition has been used as a way to protect wildlife, these should be retained as an exception until the local board has the opportunity to assess whether a prohibition is required to protect the wildlife.

## PRIVATELY OWNED PUBLIC LAND

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

Schedule 1: General dog access rules

Default dog access rules:

Unless otherwise stated in Schedule 2:

- (a) dogs must be under control and on a leash in all council-controlled public places with unrestricted access; and
- (b) dogs are prohibited in all other public places (e.g. fenced sports stadiums, libraries, cafes, shopping malls, school grounds, non-council cemeteries and urupa) unless permission is obtained, or signage indicates dogs are allowed from –
  - (i) council, in relation to places under control of the council; or
  - (ii) the person in charge of the place, in relation to places not under control of the council;
  - (iii) provided the person whom the dog is accompanying complies with any reasonable conditions imposed in relation to the entry or presence of the dog.

#### **Dog Management Bylaw 2012:**

Schedule 1, Dog access rules

(same information as above)

### STATUTORY OBLIGATION

Under Section 10 of the Dog Control Act 1996 refer to a territorial's responsibility around identifying dog access rules and the principles that should guide dog access:

(10)(3) Every Policy adopted under this section -

(b) shall identify any public places in which dogs are to be prohibited, either generally or at specified times, pursuant to a bylaw made under section 20(1)(a); and

(c) shall identify—

- (i) any particular public places; and
- (ii) any areas or parts of the district,— in which dogs (other than working dogs) in public places are to be required by a bylaw made under section 20(1)(b) to be controlled on a leash;

(d) shall identify those areas or parts of the district in respect of which no public places or areas are to be identified under paragraph (b) or paragraph (c)

(10)(4) In adopting a policy under this section, the territorial authority must have regard to—

- a) the need to minimise danger, distress, and nuisance to the community generally
- b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults
- c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs
- d) the exercise and recreational needs of dogs and their owners.

### ISSUE IN 2011

In 2011, all maunga were controlled by Auckland Council, so dog access rules in these areas were considered as part of the Policy and Bylaw. Of the thirteen maunga in Auckland, only three were specified in Schedule 2 (three Maungawhau Domain/ Mount Eden, Te Tatu a Riukiuta/ Big King, Owairaka/Mount Eden) all others were default on leash under the above regional default rules.

With these areas transferring out of council control to the Tūpuna Maunga o Tāmaki Makaurau Authority, the default status of the areas not specified in Schedule 2 has changed from under control on leash, to prohibited, unless signage indicates dogs are allowed.
<b>OUTCOME SOUGHT IN 2011</b>
To have dogs under control on leash on maunga in Auckland.
<b>IMPLEMENTATION</b>
Owners of privately owned public places are able to take control of dog access and may put up their own signage.
<b>ISSUE NOW</b>
Auckland's maunga have transferred from council to the Tūpuna Maunga o Tāmaki Makaurau Authority, which means they fall within the scope of the definition of privately owned public land. The Authority is responsible for creating dog access rules and putting up appropriate signage. Of the thirteen maunga, the following have their access rules listed within the Schedule of dog access rules: three Maungawhau Domain/ Mount Eden, Te Tatua a Riukiuta/ Big King, Owairaka/Mount Eden . This means that any changes required to these public spaces would require going through a special consultative procedure.
<b>OUTCOME SOUGHT</b>
To empower and enable the Tūpuna Maunga o Tāmaki Makaurau Authority to make decisions about dog access on maunga.
<b>EVALUATION</b>
The Tūpuna Maunga o Tāmaki Makaurau Authority did not exist when the Policy and Bylaw were previously drafted. This review provides the opportunity to clarify jurisdiction.
<b>OPTIONS</b>
<ul style="list-style-type: none"> <li>• <b>Option 1: status quo</b> <ul style="list-style-type: none"> <li>○ Retain current wording in the Policy and Bylaw.</li> </ul> </li> <li>• <b>Option 2: specify that non-council controlled places also includes the maunga</b></li> </ul>
<b>RECOMMENDATIONS</b>
Staff recommend option 2, to specify that the maunga are also an example of privately owned Discussion with staff from the Tūpuna Maunga o Tāmaki Makaurau Authority indicated a preference to remain status quo, with the three maunga within the schedule of access rules. If the Tūpuna Maunga o Tāmaki Makaurau Authority want to change the access rules on the three maunga, Auckland Council would have to undertake a full public consultation to remove the maunga from the schedule.

## OWNERS OF MENACING DOGS

### CURRENT STATE

#### **Auckland Council Policy on Dogs 2012:**

(6) Maintain dog compliance and enforcement best-practice that use powers in a way that proactively:

- classify dogs identified nationally by breed or type of dog or by behaviour to be dangerous or menacing
- ensure compliance with classification requirements –
  - (i) For dogs classified as dangerous, this means the dog must be kept within a securely fenced portion of the owner's property that provides dog-free access to at least 1 door of any dwelling on the property, muzzled in any public place or private way except when completely confined in a vehicle or cage, controlled on a leash (except when in a dog exercise area), and neutered. The owner of a dangerous dog must pay 150% of the applicable registration fee, and must not change ownership of the dog without the consent of council.
  - (ii) For a dog classified as menacing, this means the dog must be muzzled in any public place or private way except when completely confined in a vehicle or cage. All dogs classified as menacing must also be neutered. The requirement to neuter the dog applies to dogs classified by any other council and registered with Auckland Council

#### **Dog Management Bylaw 2012:**

Menacing dogs are enforced and defined through the Dog Control Act 1996 and do not require to be repeated in the Bylaw.

### STATUTORY OBLIGATION

Under Section 33A of the Dog Control Act 1996, a territorial authority may classify a dog as menacing if:

33A(1) (a) it has not been classified as a dangerous dog under section 31

- (b) a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of –
  - (i) any observed or reported behaviour of the dog
  - (ii) any characteristics typically associated with the dog's breed or type.

Under Section 33E, if a dog is classified as menacing under Section 33A, the owner of the dog-

- (a) must not allow the dog to be at large or in any public place or in any private way, except when confined completely within a vehicle or cage, without being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction
- (b) must, if required by the territorial authority, within 1 month after receipt of notice of the classification, 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 microchip their dog
- (c) must, if a certificate under paragraph (b)(ii) is produced to the territorial authority, produce to the territorial authority, within 1 month after the date specified in that certificate, a further certificate under paragraph (b)(i).

\*Owners of menacing dogs that fail to comply with the Act commits an offence is subject to a fine, not exceeding \$3000.

#### **ISSUE IN 2011**

The classification of dogs is enforced under the Dog Control Act 1996. Where owners fail to meet their obligations, enforcement of action is necessary to:

- ensure the safety and comfort of people, stock, poultry, domestic animal or protected wildlife and safety of property (e.g. seizure of a dog that is at large or has attacked a person).
- penalise dog owners to impress upon them the severity with which the community as a whole views the failure to meet dog owner obligations, to deter repeat offending, and to partially recover the cost of dog management services.
- visibly demonstrate to other dog owners and the community as a whole that the Council is committed to ensuring dog owners are accountable for the behaviour of their dog.

#### **OUTCOME SOUGHT IN 2011**

The Dog Control Act contains significant powers to enforce owner obligations. The purpose of the policy is to guide how these powers are used (not to repeat them). This takes a stance on menacing and dangerous dogs, dogs threatening public safety, registration compliance and de-sexing of uncontrolled dogs.

#### **IMPLEMENTATION**

Animal Management Officers enforce menacing dogs by using the definition stated in the Dog Control Act 1996.

#### **ISSUE NOW**

- In 2016/2017, registration data indicated that there were:
  - 3565 menacing dogs by breed: dogs that are classified to be predominantly the one the of the breeds (Brazilian Fila, Dogo Argentino, Japanese Tosa, Perro de Presa Canario) or type (American Pit Bull Terrier) listed in the Dog Control Act 1996, but have not committed an offence
  - 630 menacing dogs by deed: dogs that have committed an offence, regardless of breed or type of dog
- Stakeholder feedback highlighted the need to encourage responsible dog ownership licence and/or training for owners of dangerous dogs.
- A public survey from the Department of Internal Affairs (2016) found that dog owners believed that the biggest contributing factor to a dog attack was related to the dog owner (63 per cent), having education about dog behaviour (28 per cent) and the dog breed (5 per cent). Survey participants believed the best approach to reduce the number of dog attacks was education about dog behaviour (87 per cent) and requiring owners to take dog obedience courses (63 per cent).
- Mana whenua emphasised the importance of protecting their tamariki who are often victims of dangerous dogs.

#### **OUTCOME SOUGHT IN 2018**

Promote and incentivise responsible dog ownership for those owners whose dog has been classified menacing by deed.

#### **EVALUATION**

The classification and enforcement menacing dogs through the Dog Control Act 1996 and the Policy, as well as amnesty programs has enabled council to identify additional menacing dogs (by breed). Menacing dogs by deed are not linked to a breed, and therefore will continue to require enforcement from Auckland Council.

### OPTIONS

- **Option 1: status quo**
  - Continue to classify and enforcement dangerous and menacing dogs through the Dog Control Act 1996.
- **Option 2: amend the Policy to incentivise responsible dog ownership among menacing dog owners (menacing by deed)**
  - incentivise and promote responsible dog owner by providing the opportunity of menacing dog owners (by deed) to undertake an owner education course.
  - once the education course is complete, and if there are no additional infringements over a 12-month period, there is an opportunity for council to remove their menacing by deed classification.
  - note: this incentive would be at the discretion of council, and would not guarantee the removal of classification. Training and education would be at the expense of the owner, and the dog owner education programme or a dog obedience course (or both) approved by the territorial authority.

### RECOMMENDATIONS

Staff recommend option 2, amending the Policy to incentive responsible dog ownership among menacing dog owners (by deed).

This approach encourages owners to take greater responsibility for the behaviour of their dog, and provides an opportunity for them to remove the classification of their dog. Though this approach may impact council's reputation and the public may perceive that council has gone 'soft' on dogs that have caused harm. However, this method still allows for council discretion, and a case by case approach would be taken when determining if it is appropriate to change the classification of the dog.