

Proposed Auckland Transport Public Safety and Nuisance Bylaw 2013

Recommendations

That the Board:

- i. receives and considers the recommendations of the hearings panel on the Auckland Transport Public Safety and Nuisance Bylaw 2013 contained in Attachment 1 - "Report of the hearings panel on the proposed Public Safety and Nuisance Bylaw 2013".
- ii. makes the Auckland Transport Public Safety and Nuisance Bylaw 2013 in Attachment 2 to take effect on 26 May 2014.
- iii. authorises the Chief Executive in consultation with Councillor Lee, as Chair of the Hearings Panel, to make any minor edits or amendments to the Auckland Transport Public Safety and Nuisance Bylaw 2013 to correct any identified errors or typographical edits that do not substantially amend the provisions of the bylaw.
- iv. receives and considers Attachment 3 entitled "Comparison table between the notified and amended versions of the proposed Auckland Transport Public Safety and Nuisance Bylaw 2013 bylaw".

Executive summary

Auckland Transport (AT) has the power to make bylaws in relation to matters of public safety and nuisance for the Auckland transport system. Auckland Council (AC) has the same power in relation to the public spaces that it manages.

A joint project lead by AC reviewed the bylaws made by the previous councils and determined that they should be replaced with new region wide bylaws. In order to produce a consistent set of rules across both organisations area of jurisdiction matching bylaws were produced for both organisations, noting that many of the activities being controlled by the proposed bylaws occur on roads.

Following a joint public consultation on the proposed bylaws using the special consultation procedure in February 2013, a joint hearings panel appointed by AC and AT considered the written and oral submissions. The panel has reported back its recommendations for the governing bodies of AC and AT. These recommendations were considered by the governing body of AC at its public meeting on 22 August 2013 and the AC made the bylaw in accordance with those recommendations.

The hearing panel report in Attachment 1 contains recommended changes to the wording of a number of clauses in the AC and AT bylaws as a result of submissions.

Attachment 3 is a comparison table between the notified and amended versions of the proposed Auckland Transport Public Safety and Nuisance Bylaw 2013 in Attachment 2.

Other recommended changes in the hearing report relate to reserves and beaches and are not applicable to the proposed AT bylaw.

Strategic context and legislative requirements

AT seeks to align its strategic direction with the Auckland Plan: *Auckland's transport system is effective and efficient, and provides for the region's social, economic and environmental and cultural wellbeing.*

In December 2012 the board considered that the proposed bylaw would assist in achieving this outcome when it approved the bylaw for public consultation which subsequently took place in February 2013. The board determined that a bylaw is the most appropriate and effective mechanism to ensure that activities do not create a nuisance, impact on public safety, create an obstruction, cause damage to public property or interfere with the public's ability to enjoy the public place.

Legacy bylaws

Section 61 of the Local Government (Auckland Transitional Provisions) Act 2010 provides that the legacy council bylaws about the Auckland transport system that are transport-related remain valid within the respective legacy areas until they are revoked or expire and must be reviewed by AT.

The legacy council bylaws relating to public safety and nuisance were made by the councils under section 145 of the Local Government Act 2002 (LGA02) and section 684 of the Local Government Act 1974. Section 684 was repealed and replaced by section 22AB(1)(x) of the Land Transport Act 1998 (LTA98). The legacy bylaws to the extent that they apply in public places such as parks and beaches are now deemed to have been made by AC. To the extent that they apply in the Auckland transport system they are deemed to have been made by AT.

AT bylaw making powers

AT is able to use the statutory powers of a local authority to make bylaws under section 145 LGA02 to protect the public from nuisance, to protect and maintain public health and safety and to minimise the potential for offensive behaviour in public places. AT's power to make bylaws relating to the display of street numbering, which is also part of this bylaw, are contained in section 22AB(1)(x) LTA98.

AT's legislative authority derives from sections 45 and 46 of the Local Government (Auckland Council) Act 2009. Section 54 of that Act provides that AT cannot delegate the power to make a bylaw and Section 50 prohibits AC from making a bylaw where the legislative power has been conferred on AT.

Background

Joint AC / AT review of legacy bylaws

AC lead the review of legacy council bylaws relating to public safety and nuisances in public places (including parks, beaches and roads) with political, internal and external stakeholders. Those consulted included the AC's Regulatory and Bylaws Committee who provided policy direction on the issues and options, the local boards and enforcement officers at AC who are responsible for enforcing these bylaws in public places including enforcement on roads.

The review and analysis recommended that the majority of issues regulated by legacy bylaws continue to be regulated in bylaws with a small number of issues no longer being considered relevant to regulate as they were covered by other bylaws or legislation or could be dealt with better by police or other agencies.

Proposed AC and AT Public Safety and Nuisance bylaws

The bylaws contain similar provisions to ensure the controls that exist in public open space whether in parks, beaches or roads will apply consistently. As many of the provisions do not have a significant direct impact on the transport system's ability to perform its transport function, AC has taken the lead in developing much of the policy elements of these bylaws.

Public consultation on proposed AC and AT proposed bylaws for public safety and nuisance

After this review the AC and AT governing bodies approved the commencement of a joint public consultation on the bylaws during February 2013 following the special consultative procedure under the LGA02 and meeting the requirements for consultation under the LTA98. The joint statement of proposal approved for the consultation outlined the issues considered for the controls in the proposed bylaws:

- nuisances, safety and behaviour in any public place
- damage in any public place
- obstructions in any public place
- controls for public transport infrastructure and roads
- street naming and numbering on buildings

Hearing Panel

In May, a hearing panel of Councillor Mike Lee (chair), board member Mike Williams and Councillors Richard Northey and Des Morrison was appointed by the board and by AC. The panel deliberated on 117 written and 18 oral submissions (including oral submissions from the Waiheke and Orakei Local Board) and prepared a report with recommendations for the AC and the board to consider when making the proposed bylaws.

Issues and options

Hearing panel report - deliberations and recommendations to the Governing Body of AC and the Board of AT

The hearing panel report discusses the issues raised in the submissions under the topics covered by the clauses of the AC and AT bylaws. (See attachment 1). Topics 2 and 6 of the report relate to parks and beaches and are only applicable to the AC bylaw.

Deliberations and recommendations by topic applicable to the proposed AT bylaw

A comparison table sets out the proposed amendments and the reasons for those amendments arising from the Panel's deliberations. (See attachment 3).

Topic 1 - Purpose (clause 4)

Submitters commented on the impact of activities occurring on a public place that have an impact on those living adjacent to the public place. Rather than amending the purpose the panel recommended a change to the definition of "nuisance" in clause 5.

Topic 2 – Interpretation (clause 5)

Recommendations to definitions in the AC bylaw relate to parks and beaches and do not apply to the AT bylaw.

Topic 3 - Regulation of public safety, nuisance and general behaviour in public places (clause 6)

Window washing and begging are activities of particular relevance on roads, that raise issues of safety and nuisance. These activities were regulated in the proposed bylaws consulted on. The panel made recommendations for amendments to clause 6 to fully reflect submissions respecting these activities. There has been some media interest in the proposals relating to begging in particular but the AC has passed its bylaw as recommended by the hearing panel.

Topic 4 - Regulation of damage in any public place (clause 7)

Based on submissions from Counties Power Ltd., Vector Ltd and discussions with Watercare Services Ltd. the panel has recommended a new clause 7(3) providing exemption to network utility operators from the requirement in this clause to obtain approval from works in public places as network utility operators are already required to obtain approval to undertake works in roads through the corridor access request (CAR) process.

Topic 5 - Regulation of obstructions in any public place (clause 8)

Based on submissions the panel recommended including a provision to include the prohibition of “tents” in addition to prohibiting other types of structures on roads without permission. A proposed recommended amendment to the AC bylaw to allow tents to be erected in parks and on beaches is not applicable to roads.

Topic 6 – Additional controls for parks and beaches

This is only applicable to the AC bylaw.

Topic 7 - Additional controls for public transport infrastructure (clause 9)

Clause 9 of the AT bylaw provides specific controls for public transport infrastructure and roads whereas clause 9 of the AC bylaw provides specific controls for parks and beaches. The panel noted no submissions were made on this clause in the AT bylaw and recommended the proposed clause as notified.

Topic 8 – Street naming and numbering (clause 10)

The panel reviewed the submissions related to stronger enforcement by AC and to the need to review street names undertaken by AC. The panel supported the AC and AT bylaws as notified. This includes requirements for the display of property numbers with a minimum font size.

Topic 9 - Editing amendments to the bylaw (clause 6)

The panel recommended amendments to both bylaws to clarify the intent and to enable clear enforcement. The specific amendments applicable to the AT bylaw are in clause 6(1)(b) and 6(1)(c).

Financial Impact

No direct financial impact is identified for AT to make the bylaw. The administration and enforcement of the bylaw will be undertaken by Licensing and Compliance at AC in accordance with their current delegation.

Stakeholder engagement

Local Boards

In addition to the public consultation following the special consultative procedure consultation was undertaken with specific people in accordance with Section 22AD of the LTA98 which requires AT to give written notice to certain persons of its intention to make a bylaw.

Local boards were consulted jointly by AC and AT on the proposals and their views were sought on how to address the perceived problems in November 2011 and during September/October 2012. All local boards received a discussion document on the issues and options for managing these activities. The local boards were overall in support of managing the activities and issues in an Auckland-wide bylaw.

Legal review

In addition to lawyers in AT's Regulations and Standards Unit and in-house legal counsel from AC being involved in the bylaw development process, this report, accompanying documents and proposed Auckland Transport Public Safety and Nuisance Bylaw have been reviewed by Kensington Swan as external legal counsel. They have advised that appropriate consultation appears to have been undertaken and that they have identified no significant legal issues arising from the recommendations of the hearing panel or from the proposed amendments to the bylaw arising from them.

Next steps

The Minister of Transport will be notified in accordance with section 22AB(4) of the LTA98 within one week of the bylaw being made.






Public notice confirming the date the bylaw comes into effect will be made as soon as reasonably practicable after the bylaw is made in accordance with section 22AE of the LTA98. The bylaw will come into effect on 26 May 2014 to be consistent with the approach approved by AC to align with planned changes to the systems and resources of Licensing and Compliance at AC.

Licensing and Compliance at AC will be responsible for administering and enforcing the bylaw in accordance with their current delegation.

Attachments

Number	Description
1	Report of the hearing panel on the proposed Public Safety and Nuisance Bylaw 2013
2	Proposed Auckland Transport Public Safety and Nuisance Bylaw 2013
3	Comparison table between the notified and amended versions of the proposed Auckland Transport Public Safety and Nuisance Bylaw 2013 bylaw
4	Auckland Council Public Safety and Nuisance Bylaw 2013 for information only

Document ownership

Submitted by	Terry Sugrue Regulations and Standards Manager	
Recommended by	Mario Zambuto General Counsel	
Recommended by	Randhir Karma Manager Road Corridor Operations	
Recommended by	Greg Edmonds Chief Operating Officer	
Approved for submission	David Warburton Chief Executive	

Glossary

Acronym	Description
AC	Auckland Council
AT	Auckland Transport
LGA02	Local Government Act 2002
LTA98	Land Transport Act 1998

Report of the hearings panel on the proposed Public Safety and Nuisance Bylaw 2013

File No.: CP2013/13079

Purpose

1. Following public consultation and consideration of submissions relating to the proposed public safety and nuisance bylaw, the hearings panel recommends the making of new Public Safety and Nuisance Bylaws for Auckland and the revocation of 11 legacy public safety and nuisance bylaws. It should be noted that while this report discusses both the proposed Auckland Council and Auckland Transport bylaws comments on the Auckland Transport bylaw are provided for information only.

Executive Summary

2. On 20 December 2012, the Governing Body approved the proposed public safety and nuisance bylaw for public consultation. A total of 117 submissions were received, with one declared invalid as it did not contain the submitter's contact details however it was included in the report to the Hearings Panel as additional information. 18 submitters, including two local boards (Waiheke and Orakei) that had not made written submissions, made verbal submissions during the one day hearing held on 20 May 2013. The hearings panel held its deliberations in public on 29 May 2013, 25 June 2013 and 26 July 2013.
3. The matters raised in the submissions considered by the hearings panel have been classified into nine topic areas. For each of these topics this report briefly outlines the approach taken in the proposed bylaw and summarises comments made by the submitters, and provides the hearings panel's view and recommendations.
4. As a result of the submissions the hearings panel has recommended changes to the wording of a number of bylaw clauses in order to clarify the types of activities that the bylaw intends to manage are issues of public safety and nuisance. The hearings panel also recommends the inclusion of additional clauses, such as exemptions for network utility operators and, minimising obstructions caused by tents in public places, following submissions to the proposed bylaw.
5. The hearings panel, also recommend the inclusion of a clause which will enable the council to set additional controls on conflicting recreational activities (such as set netting or surf casting) where they are the subject of complaints about nuisance and public safety.
6. The bylaw is proposed to come into force from 26 May 2014, with the revocation of the legacy bylaw clauses relating to public safety and nuisance from that date.
7. The proposed amended bylaw is attached to this report as Attachment A and a table of the comparison between the notified and recommended drafts of the proposed bylaw is attached as Attachment B. Auckland Transport's Public Safety and Nuisance Bylaw 2013 is attached as Attachment C and is for information purposes only.

Recommendation/s

That the Governing Body:

- a) receives and adopts the recommendations of the hearings panel on the Public Safety and Nuisance Bylaw 2013.
- b) makes the Public Safety and Nuisance Bylaw 2013 contained in Attachment A pursuant to section 145 (b) of the Local Government Act 2002 and section 64 of the Health Act 1956, with effect from 26 May 2014;
- c) revokes either in full or in part, (as identified in Section One of the section entitled "Additional Information to Public Safety and Nuisance Bylaw" in Attachment A), the following legacy bylaws relating to public safety and nuisance with effect from 26 May

2014:

- (i) Auckland Regional Council Parks Bylaw (2007)
 - (ii) Auckland City Council No.20 – Public Places Bylaw (2008)
 - (iii) Franklin District Council Public Places Bylaw (2007)
 - (iv) Franklin District Council Beach Control Bylaw (2006)
 - (v) Manukau City Council Chapter 9 - General Nuisance Safety Behaviour Bylaw
 - (vi) Manukau City Council Chapter 17- Street Names and Numbering of Premises Bylaw
 - (vii) North Shore City Council Part 2 - Public Places Bylaw (2000)
 - (viii) Papakura District Council Public Places Bylaw (2008)
 - (ix) Rodney District Council Chapter 8 - Public Places
 - (x) Rodney District Council Chapter 9 - Road Crossings and Numbering of Premises
 - (xi) Waitakere City Council Public Places Bylaw (2010)
- d) confirms the delegations proposed in section 3 of the section entitled “Additional information to Public Safety and Nuisance Bylaw” in Attachment A which provide for officers to exercise powers under the bylaw.
- e) requests that officers report back to the Regulatory and Bylaws Committee on the delegations to be provided to the council for making controls on recreational activities on beaches that are causing a nuisance or impacting on public safety.
- f) requests that officers report back to the Regulatory and Bylaws Committee on an operational procedures policy developed in consultation with social service agencies and the police, to guide officers involved in the implementation of this bylaw.
- g) authorises the Manager Policies and Bylaws in consultation with Councillor Lee, as chair of the Hearings Panel, to make any minor edits or amendments to the Public Safety and Nuisance Bylaw 2013 to correct any identified errors or typographical edits or to reflect decisions made by the Governing Body.

Discussion

8. Following the amalgamation of the seven former territorial authorities and the Auckland Regional Council on 1 November 2010, Auckland Council and Auckland Transport inherited a number of legacy bylaws that address issues relating to public safety and nuisance and general behaviour in public places. The issues relating to public safety and nuisance have been identified through a review of the legacy bylaws and pre-consultation with political, internal and external stakeholders. In analysing those problems, officers identified the appropriate mechanism(s) available to the council and Auckland Transport to address each problem. This included recommending complementary bylaws to continue to regulate the majority of issues covered by the legacy bylaws. A small number of issues were considered no longer relevant, or better dealt with by police or other agencies.
9. The Regulatory and Bylaws Committee considered these matters at its meeting of 14 December 2012 (refer RB/2012/34) and recommended that a bylaw is the most appropriate way of addressing the issues relating to:
- nuisances, safety and behaviour in any public place
 - damage in any public place
 - obstructions in any public place
 - controls for parks and beaches
 - street naming and numbering on buildings.

10. Auckland Transport's Board of Directors considered these matters at its meeting of 18 December 2012 (refer agenda item 10(iv)) and recommended that a bylaw is the most appropriate way of addressing the issues relating to:
 - nuisances, safety and behaviour in any public place
 - damage in any public place
 - obstructions in any public place
 - controls for public transport infrastructure
 - street naming and numbering on buildings.
11. In summary, the options proposed for each issue were:
 - Option A: Do nothing - no role for Auckland Council or Auckland Transport - due either to existing legislation or to the fact that the problem is no longer considered significant enough to warrant regulation.
 - Option B: Non regulatory approach – using non-regulatory tools such as public information, education, signage and awareness campaigns.
 - Option C: Regulation through an Auckland Council bylaw and an Auckland Transport bylaw.
12. The hearings panel was appointed to hear submissions, deliberate and make recommendations to the governing body of Auckland Council on the proposed Public Safety and Nuisance Bylaw (resolution no. HC/2012/3) and to the Board of Directors of Auckland Transport on the proposed Public Safety and Nuisance Bylaw.
13. On 20 December 2012 the governing body approved the draft proposed public safety and nuisance bylaw for public consultation (resolution no. GB/2012/179). The proposal was publicly notified with a submission period of 15 February 2013 to 15 March 2013. Public notification included notices, advertisements and articles in the New Zealand Herald, in the February edition of OurAuckland, in 16 suburban or community newspapers and on the council's website. All relevant documents, including the statement of proposal, summaries, and freepost submission forms were made available on the council's website and at libraries and service centres across Auckland.

Overview of submissions

14. At the close of the submission period 117 submissions had been received, with one declared invalid as it did not contain the submitter's contact details; however it was included in the report to the Hearings Panel as additional information. 70 submissions commented on issues relating to specific activities at beaches and the potential for the council to manage these through the proposed bylaw. Although these issues were neither mentioned in the Statement of Proposal nor notified Auckland Council bylaw, the hearings panels considered that the submissions were within the scope of the proposal ("Additional controls on parks and beaches") and were therefore accepted.
15. Eighteen submitters spoke at the one day hearings held on 20 May 2013 including two local boards (Waiheke and Orakei) that had not made written submissions but made verbal submissions in general support of the proposal. The panel heard from submitters speaking on a range of issues including set netting bans and fishing restrictions as well as the impacts of activities from public places on adjacent private properties. They also heard from a submitter on behalf of volunteers in parks, another discussing model aircraft in parks, as well as representatives from the Auckland City Mission Committee and Heart of the City. The hearings panel held its deliberations in public on 29 May 2013, 25 June 2013 and 26 July 2013.
16. In order to prepare this report, the matters debated by the hearings panel have been classified into nine topic areas.

Deliberations Topic 1 – Purpose (clause 4)

Matters raised in submissions

17. A number of submitters commented on the impact of activities occurring on a public place that cause a nuisance on those living adjacent to that public place and wanted to see some amendment to the purpose of the bylaw (clause 4) to reflect this.

Hearings Panel deliberations

18. The panel deliberated on this issue and determined that rather than amend clause 4, the definition of “nuisance” in Clause 5 should instead be revised to consider the impact of activities on those living adjacent to a public place. The panel recommends that clause 5 be amended as proposed in Attachment A.

Deliberations Topic 2 – Interpretation (clause 5)

Matters raised in submissions

19. One submission noted there was a typographical error in the definition of “Animal” under Part 1 – Preliminary Provisions (Auckland Council bylaw). The proposal states “...does not include humans of dogs” when it should read “humans **or** dogs.”
20. There were a number of submissions that raised the issue of activities on beaches (specifically set netting and, surf casting) that were considered to be causing a nuisance and are a public safety issue. While these activities were not included in the notified version of the bylaw that went out for consultation the panel did consider them to be within the scope of the proposal. The notified definition of “beach” has subsequently been amended as a result of these submissions so that it now includes “coastal marine area”. The effect of this is to ensure maximum bylaw coverage. The definition of “coastal marine area” has been included in clause 5.

Hearings Panel deliberations

21. The panel recommends that the relevant clause 5 be amended as proposed in Attachment A. This includes amending the definition of “nuisance” to reflect the submissions received relating to controlling the impacts of activities on people adjacent to a public place and, “beach” as per the above comment.
22. The panel also recommends that the definition of “council” be amended so that it is clear that any decisions made by the council, including local boards or any other authorised person are for the purposes of this bylaw only.

Deliberations Topic 3 – Regulation of public safety, nuisance and general behaviour in public places

Proposal as publicly notified

23. Clause 6 of the proposed bylaw would enable Auckland Council to continue managing the effects of, or behaviours associated with, certain activities that can either create a nuisance, are intimidating, threatening or impact on public perceptions of safety. The proposed clause is intended to ensure that appropriate controls are retained in order to meet the community’s expectations of having safe, accessible and enjoyable public places in the Auckland region. The council recognises that there are a number of underlying issues associated with certain behaviours and protecting people who are perceived to be creating a ‘nuisance’ from any harm while minimising the impact on public safety is equally important. It will also contribute to achieving the community safety objectives identified in the Auckland Plan as well as by other stakeholders such as the Police.

Matters raised in submissions

24. There were a total of 31 submissions that commented on this topic.

25. Fourteen submitters supported the entire proposal to manage inappropriate behaviour and activities in public places that are considered to cause a nuisance, be intimidating or impact on public safety.
26. The submission from the New Zealand Police represents the views of all three Police districts (Waitemata, Auckland City, and Counties Manukau). The submitter supports retaining bylaws that deal with public safety and nuisance on the grounds that they allow the Police to deal with a range of anti-social behaviours at a level that is below the threshold to warrant the intervention of criminal law.
27. There were 10 written submissions including from Heart of the City, Smith and Caughey, Auckland City Mission Committee and members of the homeless community that commented on clause 6 (1)(f) relating to "asking for money, food, or other items for personal use or solicit donations in a manner that may intimidate or cause a nuisance to any person". There was one submission that opposed this clause on the grounds that bylaws should not restrict people's rights to undertake activities such as begging in a public place.
28. Of the nine submissions addressing the above issue, five commented on the definition of "nuisance" and "intimidating" and the need for clarity as to how this would be interpreted. The submission from the Auckland City Mission Committee notes that the wording as currently proposed (specifically, "in a manner that may intimidate or cause a nuisance to any person") needs to be retained. While the wording is said to be subjective and open to interpretation, without the distinction it would mean there is an outright ban on begging. Conversely, two submitters commented that the distinction needs to be removed citing that it is not strong enough to deal with anti-social behaviour.
29. Nine written submissions commented on car window washers with comments similar to those relating to begging. The Police's submission noted that while window washing in the roadway can be a road safety matter, the activity itself is not an offence under the Land Transport Act 1998 or the regulations so a bylaw is the only lawful means for dealing with this.
30. Eight written submissions commented on the use and distribution of mind altering substances. The submission from the Auckland City Mission Committee supported the provision as long as care is taken when seizing items and recommended that security guards are well informed about the bylaw. They supported the "distribution" component.
31. Other issues covered by the proposal that submitters commented on included fires and fireworks in public place. The Piha Residents and Ratepayers Association supported the proposed provisions and recommended a total fire and fireworks ban noting that fires caused by fireworks on both public and private properties has been an on-going issue in Piha and they need to be prohibited due to the significant risk to life and property posed by forest fires in the Waitakere ranges.
32. The submission from the Friends of Maungawhau (representing parks volunteers at Maungawhau) wanted to ensure that clause 6 (1) (a) (relating to using a public place in a way that wilfully obstructs or disturbs any other person) did not apply to volunteers that have been approved by the council to work in parks. The submitter wanted to see an exceptions clause.
33. The reckless use of vehicles (such as motorbikes, quad bikes and hovercraft) in parks was commented on by five submitters and the impact on parks users.
34. Other comments from submitters included supporting the proposed clauses relating to graffiti and posters and; electric and razor wire fences adjacent fences with one submitter wanting to ensure the clause did not prohibit fences for stock control.
35. The verbal submission presented to the hearings panel from the Waiheke Local Board spoke in support of having a bylaw to address begging and supported the submission from Heart of the City and Smith and Caughey.

Hearings Panel deliberations

36. The panel noted the comments from the submitters (both written and verbal submissions) and deliberated on all the clauses (including those that were not the subject of any submissions).
37. The hearings panel is of the opinion that the clauses 6(1) (b), (c), (f) and (g) and; 6(2) (c) be amended to fully reflect the submissions and the discussions at deliberations. The hearings panel recommends the amendments contained in the amended clause 6 of the proposed public safety and nuisance bylaw in Attachment A. Reasons for the proposed amendments are in Attachment B.
38. The panel noted that soliciting of donations, which can be undertaken by buskers and approved charities, and was originally included in clause 6(1) (f) of the notified bylaw has been subsequently removed in the amended version as it is the subject of the trading in public places bylaw review project which is currently in progress. This is the reason the bylaw now only refers to the remaining relevant donation seeking activity, namely begging. The bylaw refers properly only to the minority of such begging activity that is intimidating or causing a nuisance. People who beg and who may be in need of advice or support will mainly be responded to by other council policies and by the network of appropriate voluntary agency support and welfare services.
39. The panel agreed with the police that the bylaw should address vehicle window washing so that they could take action against window washers who were acting in a way that could be unsafe for themselves or those in vehicles or on cycles, that was threatening or intimidating or causing a nuisance, or could obstruct traffic such as at intersections, or stopped for traffic lights or pedestrian crossings. On the other hand window washing for charities or to supplement family income and taking place in places like quiet car parks or at safe locations on the sides of roads would not require enforcement action under this bylaw.

Deliberations Topic 4 – Regulation of damage in any public place

Proposal as publicly notified

40. Clause 7 enables Auckland Council to continue managing against any form of damage to, or interference with, publicly owned land, property, assets and infrastructure as left unregulated the consequences of such activities can reduce the usability of a public place and has the potential to cause injury. Public property or assets includes any heritage or waahi tapu sites, structures, street furniture, surface, natural feature, parks, or vegetation.

Matters raised in submissions

41. There were eight submissions that commented on this topic. Most of the submissions contained broad comments on damage to public places and infrastructure rather than addressing any specific clause. The points raised by submitters were as follows:
 - One submitter would like to see stronger enforcement measures for those who damage bus stops.
 - Three submitters commented on the damage caused by vehicles on several reserves in Panmure (Dunkirk and Riversdale) and also noted that people were removing rocks from beaches in the area.
 - Two submitters commented exclusively on Auckland Transport's bylaw expressing concern about the proposal's requirement for "prior written approval" from Auckland Transport before undertaking any works that may "cause damage on a public place". Both Counties Power Ltd and Vector Ltd noted that the "Corridor Access Request (CAR)" process establishes prior approval for network utility operators to undertake works within the road and road reserves. The submitters contend that the bylaw's proposal for "prior written approval" would effectively be duplicating the CAR process and have recommended amending the proposal to exempt network utility operators from the requirement to get an additional layer of permission.

Hearings Panel deliberations

42. The panel noted the comments from the submitters and deliberated on all the clauses (including those that were not the subject of any submissions). The hearings panel is of the opinion that clause 7(1) (a) should be amended and, a new clause added at 7(3) to fully reflect the submissions and the discussions at Deliberations. The hearings panel recommends the amendments contained in the amended clause 7 of the proposed public safety and nuisance bylaw in Attachment A.

Deliberations Topic 5 – Regulation of obstructions in any public place

Proposal as publicly notified

43. Clause 8 would continue to enable Auckland Council to control or minimise any obstructions or the inappropriate placement of items, materials or structures, including tents, on council owned, managed or controlled property for reasons of public safety as well as amenity considerations such as visual impact.

Matters raised in submissions

44. Four submitters made general comments about “obstructions in public places” but did not explicitly reference a clause instead commenting on issues such as vehicle parking on footpaths and signs (which is the subject of a separate bylaw review); obstructions caused by set nets, and how this clause could be interpreted to include restricting surf casting.
45. The submission from the Eastern Beach Action Network commented on tents in parks causing obstructions citing that the former Manukau City Council bylaw had specific requirements for tents and structures that were erected for the purposes of shade. The submitter wanted to see some control over tents and structures in parks to minimise their physical and visual obstructions.

Hearings Panel deliberations

46. The panel deliberated on the submissions and recommend that a clause be added to address the issue of tents in a public place. The hearings panel recommends the amendments contained in clause 8 of the proposed public safety and nuisance bylaw in Attachment A.
47. The panel noted the submission from the Eastern Beach Action Network and recommended that the bylaw be amended to reflect feedback from the submitter.

Deliberations Topic 6 – Additional controls for parks and beaches (Auckland Council bylaw)

Proposal as publicly notified

48. Clause 9 would enable Auckland Council to continue managing certain activities in local and regional parks and beaches. The proposal will facilitate the on-going use and enjoyment of parks and beaches for passive and active recreation while protecting visual amenity and their ecological value. It also provides a means for the council to control recreational activities (such as set netting) if they are causing a nuisance or impacting on public safety.

Matters raised in submissions

49. Eighteen submitters commented on specific clauses in the proposed bylaw. The following summarises submitters’ feedback on specific issues. The issues are listed in the same order as they are in the proposed bylaws.
- The Howick Local Board recommended that the bylaw be broadened to enable specific local issues to be dealt with by local boards in “such [a] way that measures put in place are enforceable”.
 - The submission from NZ Horse Recreation Inc objected to any ban on horses in parks. Horse riding is recognised as a valid recreational activity in the Auckland Plan and any restrictions would be contrary to the intent of the Plan.

- Five submissions commented on vehicles on reserves in the Panmure area and the associated issues including public safety, damage and littering.
 - Two submitters support the need for restrictions on carrying weapons and one submitter commented that they would like to see this to also apply to spearguns.
 - Two submitters support restrictions on vehicles on beaches.
 - One submitter objected to clause 9(3)(l) relating to “los[ing] control of any animal” unless proven that it was deliberate or due to negligence.
50. There were 70 submissions on two recreational fishing activities that were neither mentioned in the Statement of Proposal nor the notified bylaw as they were never the subject of any of the legacy ‘public places / public safety’ bylaws that had formed part of this review. The Hearings Panel did however consider them to be within scope of the proposal and can be considered particular forms of “nuisance” which Auckland Council may wish to address by way of additional controls on beaches. They have been raised through the submission process as issues requiring further consideration. These issues are:
- Fishing activities, and in particular surf casting, in Eastern beaches (e.g. Bucklands Beach) with submissions both opposing and supporting controls or bans on this activity.
 - Set netting (primarily in the Rodney / Hibiscus Coast area) with submissions both supporting and opposing controls or bans on this activity.
51. 30 submissions commented on fishing activities in Eastern beaches with 19 opposing any proposed restrictions – as reported in a media article in January 2013 - while 11 supported controls.
- Five submissions cited a media article that appeared in the Eastern Courier in January 2013 stating that a ban on surfcasting at Bucklands Beach was being proposed, and this may have contributed to the submissions.
 - Ten submitters commented that working bees set up to clean the beaches (which were the subject of an article in the Eastern Courier in February 2013) had proven popular and that co-existence between anglers and other beach users should continue.
 - The submission from the New Zealand Recreational Fishing Council strongly opposed any restrictions on recreational fishing carried out in accordance with amateur fishing regulations because of the perceived conflict in shared use of beaches. The submitter notes public concern in media and states that the issue may have been “blown out of proportion”. The association do support education around fishing etiquette.
 - One submission contained a petition that had 55 signatures opposing any potential fishing ban. The submission expressed concern about the implications of a ban on beach users and on Auckland’s reputation.
 - Eleven submissions supported some form of fishing restrictions (or a complete ban) at Eastern beaches (e.g. Bucklands Beach), stating that it created a conflict and a hazard for other beach users (i.e. swimmers, boaties, paddle boarders).
52. The issue of set netting (primarily in the Rodney / Hibiscus Coast area) was also the subject of submissions with 39 supporting controls on this activity and one opposing any proposed ban.
- A number of submissions supported a set net ban on the grounds that they are hazardous and constitute a threat to public safety.
 - A submission was made on behalf of the Omaha Beach Community Inc - which represents approximately 1200 residents – called for a ban due to concerns that set nets create potential threats to marine life and humans.
 - One submitter attached a petition with 670 signatures (initially 616 signatures but sent in a late submission that included 3 pages of signatures that were meant to be attached to the original submission). The submission supports banning set netting from popular swimming beaches, and Hatfields Beach in particular, on the grounds that they are a public safety issue and cause obstructions. Other reasons such as marine protection, the

behaviour of set netters, navigational safety and the monopolisation of beaches were also cited but are beyond the scope of the bylaw to address.

- There was one submission opposing any proposed ban on set netting stating that tolerance, education and information are needed to address this issue and consideration needs to be given to protecting people's rights to set net.

Hearings Panel deliberations

53. The panel deliberated on the matters raised in the submissions and recommends the amendments contained in the amended clause 9 of the proposed public safety and nuisance bylaw in Attachment A.
54. The panel recommends that officers report back to the Regulatory and Bylaws Committee on the delegations to be provided to the council for making controls on recreational activities on beaches. The panel noted that any controls on activities such as set netting can only be considered in the context of public safety and nuisance, rather than threats to wildlife – as raised by a number of submitters. Some of such reasonable controls may well be most appropriately delegated to the appropriate local boards.
55. A comment was raised during the first stage of the deliberations that the notified clause (originally 9(3) (m) relating to vehicles on beaches) may be an issue for those engaged in surf lifesaving operations or undertaking maintenance on beaches and recommended an amendment. The panel agreed that this clause should be amended to effectively exempt those who need to access the beach by vehicles for these purposes.
56. The panel noted officer's comments that an exceptions clause be added to ensure that parks officers and rangers undertaking works in parks such as pest control be exempt from the requirements of the bylaw.

Deliberations Topic 7 - Additional controls for public transport infrastructure (Auckland Transport bylaw)

Proposal as publicly notified

57. Clause 9 would enable Auckland Transport to regulate certain activities on public transport infrastructure (which includes structures, buildings, vehicles directly or indirectly associated with the provision of public transport services) in order to maintain public safety and minimise nuisances.

Hearings Panel deliberations

58. There were no submissions relating to 'Additional controls on public transport infrastructure'.
59. The panel recommends the proposal as notified in Auckland Transport's Public Safety and Nuisance Bylaw.

Deliberations Topic 8 – Regulation of street naming and numbering

Proposal as publicly notified

60. Clause 10 enables Auckland Council and Auckland Transport to continue to regulate the allocation and maintenance of street naming and numbering to ensure that the public, postal and emergency services know where a property is.

Matters raised in submissions

61. Three submitters supported controls on street naming and numbering. Two of the submissions cited stronger enforcement measures in order to make the bylaw effective while one submitter commented that a review of street names was needed to rationalise the number of streets with the same name (e.g. King, Queen Street).

Hearings Panel deliberations

62. The panel recommends the proposal as notified in both Auckland Council and Auckland Transport's Public Safety and Nuisance Bylaw.

Deliberations Topic 9 – Editing Amendments to the bylaw

63. It is proposed to amend clause 6(1)(b) from what was originally notified by replacing the word “unreasonable” to excessive. Council’s compliance officers noted the difficulty in proving “unreasonable” noise and recommended that this be amended to “excessive” noise – which has been defined under the Resource Management Act 1991.
64. The panel recommended that clause 6 (1) (c) be amended to include “shopping trolley”. The panel debated the submission from the Mangere-Otahuhu Local Board regarding the need to include controls on shopping trolleys. While this issue is also covered in the Solid Waste Bylaw 2012, the panel recommends that the Public Safety and Nuisance bylaw also consider it as a ‘nuisance’ issue.
65. The panel recommends that the definition of “coastal marine area” be added to Clause 5 to reflect the amendment to the definition of “beach”.
66. The panel recommends that clause 7 (1) (a) be amended to reflect feedback from Auckland Council’s Libraries department regarding damage to library property.
67. The panel recommends that clause 8 (2) be included to reflect the submission on tents in parks causing a visual and physical obstruction.
68. Council officers recommended to the panel that a new clause be inserted in clause 9 to deal with exemptions for council officers or contractors exercising their lawful functions in parks and beaches. The panel recommend that the amendment be included.
69. Council officers recommended to the panel that under Section Four (Delegations) in “Additional information to Public Safety and Nuisance Bylaw 2013” section 4 be amended.

Consideration

Local Board Views

70. Views of local boards have been sought on how best to address the perceived problems. Two rounds of engagement were held with the local boards: in November 2011 and in September / October 2012 when all local boards received a discussion document on the issues and options for managing these activities. Overall, the local boards were supportive of continuing to manage the identified activities and issues in an Auckland-wide bylaw.
71. Three local boards (Manurewa, Mangere-Otahuhu and Howick) submitted on the proposed bylaw and two boards (Waiheke and Orakei) presented at the Hearings. Howick Local Board’s submission to the proposed bylaw commented that bylaws regulating activities on beaches, parks and reserves need to be broadened to enable local boards to address specific local issues.

Maori Impact Statement

72. The proposed bylaw’s approach to regulating the use of public places seeks to ensure that acceptable standards of convenience, safety and visual amenity are maintained for the well-being and enjoyment of Auckland’s citizens and visitors.
73. Discussions with Te Waka Angamua (formerly known as the Māori Strategy and Relations department of Auckland Council) indicated that bylaws dealing with public safety especially those on social issues such as begging, car window washing or consuming mind altering substances, should not be inconsistent with any policies that deal with the often related matter of homelessness. There has been some concern that the bylaw may have an impact on Māori who tend to be over-represented in these activities. Officers from Policies and Bylaws, Licensing and Compliance Services and Community Safety teams have worked closely with social service agencies, primarily in the Auckland Central CBD, and representatives of Te Kooti o Timatanga Hou (New Beginnings Court) to ensure that all parties understand that the bylaw is not an enforcement tool aimed at targeting a particular group. Instead it is mechanism to complement other approaches aimed at addressing the underlying causes of why people engage in this activity. It should be noted that officers have

spoken to Māori and Pacific wardens in Otara where the profile of those engaged in some of these public nuisance activities differs to those in the CBD.

74. Officers also met with Hapai te Hauora and rangatahi from the University of Auckland to try and identify any potential implications of the bylaw on Māori and the feedback was similar to that identified above (i.e. that the bylaw should not be aimed at any particular group).
75. One of the key findings from the Māori Plan for Tamaki Makaurau is that environmental issues such as clean beaches and rivers in order to access them for kaimoana and swimming are considered important. Beaches are ecologically sensitive areas and where the council has identified sensitive areas, such as dunes or particular access points such as walkways, it is necessary to protect these areas. The proposed Auckland Council bylaw provides controls to protect parks, beaches and waterways from pollution or damage. It also seeks to provide controls on activities in parks and beaches and as part of the process officers will be ensuring that iwi are consulted, as required, when determining if any restrictions on recreational activities that impact on public safety such as fishing are to be implemented. The bylaw also serves to regulate and manage against any damage to public places including waahi tapu sites and aligns with the policies contained in the former Auckland Regional Council's parks management plan regarding the protection of these areas.

General

76. The proposed bylaw has been developed through pre-consultation with political, internal and external stakeholders, including elected members of the Governing Body (Regulatory and Bylaws Committee Working Party), all local boards, council departments and units; council controlled organisations, the Police, business associations, social service agencies, disability groups, and Māori and Pacific wardens.
77. The special consultative procedure invited the views of the public and interested stakeholders and a copy of the proposal was distributed to the Police, Māori and Pacific wardens, and representatives of the New Beginnings Court.
78. The Panel would like to thank all those who contributed to the consultation process. The contributions from submitters and other stakeholders have been greatly appreciated.

Implementation Issues

79. Most of the issues covered in the draft bylaw were common to the legacy public places / public safety and nuisance bylaws so there is expected to be little impact on officers in Licensing and Compliance and Parks, Sport and Recreation. The only main implication is that the proposed bylaw is introducing the ability for the council to make additional controls on parks and beaches to manage recreational activities that may be deemed to be causing a nuisance or constitute a threat to public safety.
80. Council officers are developing an operational procedures policy to guide those involved in implementing the bylaw. As part of this process issues such as resourcing will be considered.

Attachments

No.	Title	Page
A	Proposed Auckland Council Public Safety and Nuisance Bylaw 2013	
B	Comparison between the notified and amended versions of the Public Safety and Nuisance Bylaw 2013	
C	Proposed Auckland Transport Public Safety and Nuisance Bylaw 2013	

Signatories

Authors	Councillor Lee
Authorisers	Doug McKay - Chief Executive

**Auckland Transport Public Safety and
Nuisance Bylaw 2013**
Te Ture ā-Rohe Marutau ā-lwi me te Whakapōrearea 2013

26 May 2014

**Governing Body of Auckland Transport
Resolution**

21 November 2013

Explanatory Note

Pursuant to section 145 of the Local Government Act 2002 and section 22AB of the Land Transport Act 1998, the Governing Body of Auckland Transport revokes and replaces bylaws about nuisance and public safety with the following bylaw.

This explanatory note is for information purposes only and does not form part of this bylaw.



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1 Title

This bylaw is the Auckland Transport Public Safety and Nuisance Bylaw 2013.

2 Commencement

This bylaw comes into force on 26 May 2014.

3 Application

This bylaw applies to roads and public transport infrastructure under the care, control or management of Auckland Transport.

**Part 1
Preliminary Provisions**

4 Purpose

- (1) The purpose of this bylaw is to:
- (a) protect the public from nuisance, promote and maintain public health and safety and minimise the potential for offensive behaviour in public places;
 - (b) manage and protect from damage or misuse land, structures, property and assets owned, managed or under the control of Auckland Transport;
 - (c) regulate the display of street names and the identification and numbers of premises.

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Aircraft means a fixed wing aircraft, helicopter, glider, dirigible, hot air balloon, parachute, hang glider, para glider, kite or model aircraft, whether powered or not powered.

Mind altering substance means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) nicotine;
- (d) alcohol as defined in the Sale and Supply of Alcohol Act 2012.

Nuisance has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

***Explanatory note:** section 29 states: Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:*

- (a) *where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (b) *where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (c) *where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:*
- (d) *where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:*
- (e) *[Repealed]*
- (f) *where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:*
- (g) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:*
- (h) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:*
- (i) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:*
- (j) *where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:*
- (k) *where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:*
- (ka) *where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:*
- (l) *where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:*
- (m) *where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:*
- (n) *where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:*
- (o) *where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:*
- (p) *where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:*
- (q) *where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.*

Person includes a corporation sole, a body corporate, and an unincorporated body.

Premises means any separately occupied land, building, or part of the same.

Public place—

- (a) means a place covered by this bylaw 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; and
- (b) includes any hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

Public transport infrastructure means premises, buildings, structures, vehicles and equipment that are directly or indirectly associated with the provision of public transport services and includes, but is not limited to bus stations, bus shelters, train stations, ferry wharves, park'n'ride, carparks, ticket gates, real time passenger information boards.

Road has the same meaning as section 315 of the Local Government Act 1974.

Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—

- (a) *immediately before the commencement of this Part was a road or street or public highway; or*
 - (b) *immediately before the inclusion of any area in the district was a public highway within that area; or*
 - (c) *is laid out by the council as a road or street after the commencement of this Part; or*
 - (d) *is vested in the council for the purpose of a road as shown on a deposited survey plan; or*
 - (e) *is vested in the council as a road or street pursuant to any other enactment;—*
- and includes—*
- (f) *except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988;*
 - (g) *every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—*

but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roading Powers Act 1989

Vehicle has the meaning as section 2(1) of the Land Transport Act 1998.

Explanatory note: section 2(1) states: Vehicle—

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*
- (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
- (c) *does not include—*
 - (i) *a perambulator or pushchair;*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power;*
 - (iii) *a wheelbarrow or hand-trolley;*
 - (iv) *a pedestrian-controlled lawnmower;*
 - (v) *a pedestrian-controlled agricultural machine not propelled by mechanical power;*
 - (vi) *an article of furniture;*
 - (vii) *a wheelchair not propelled by mechanical power;*

- (viii) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;*
- (ix) *any rail vehicle.*

Waahi tapu means a place sacred to Maori.

- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by the Act.
- (4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

Part 2

Public Safety, Nuisance, General Behaviour and Street Naming and Numbering

6 Nuisances, safety and behaviour in any public place

- (1) A person must not use a public place to:
 - (a) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place;
 - (b) create a nuisance through the use or playing of any instrument (musical or otherwise), any type of public address system or any type of amplified sound system, or from making any excessive sound or noise;
 - (c) use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, shopping trolley or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;
 - (d) install or maintain a fence (including a razor-wire and electric fence) in a manner that may cause an injury or nuisance to any person;
 - (e) consume, inject or inhale or distribute or offer for sale any mind-altering substance;
 - (f) beg in a manner that may intimidate or cause a nuisance to any person;
 - (g) wash or offer to wash a vehicle or any part thereof in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic.

- (2) Except at a facility or site specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to:
 - (a) display or fix any graffiti, posters, signs or advertising devices on any property that is under the control of Auckland Transport;
 - (b) light a fire (except in an appliance designed for outdoor cooking subject to any restriction imposed by Auckland Transport on the lighting of fires).
- (3) A person must not set off fireworks, flares or any other explosive material:
 - (a) in a public place, except with the prior written approval of Auckland Transport; and
 - (b) in any other place in a way that does or is likely to create a nuisance or endanger any person, property, dog or other animal in a public place.

7 Damage in any public place

- (1) Except with the prior written approval of Auckland Transport, a person must not cause damage on a public place including but not limited to:
 - (a) damaging, removing, disturbing or interfering with any property that is under the control of Auckland Transport, including:
 - (i) any archaeological, heritage, historic or waahi tapu site; and
 - (ii) any structure, street furniture, artefact, surface, natural feature, grass plot, flowerbed, tree, shrub or plant; and
 - (iii) any furnishing, fitting or equipment in a building accessible by the public.
 - (b) polluting, damaging, placing any obstruction in, or interfering with any water course or stormwater drain or channel;
 - (c) placing a structure, opening a drain or disturbing a surface that is likely to be injurious to or cause a nuisance to any person or to cause damage to that public place;
 - (d) depositing, moving or removing rock, shingle, sand, vegetation, or any material or artefact; or
 - (e) removing or damaging any tree, shrub or plant of any kind or part thereof or planting, sowing or scattering the seed of any tree, shrub or plant of any kind.
- (2) This clause does not prevent any person from maintaining the grass verge on any road adjacent to their premises.

- (3) Clause 7(1) does not apply to work by a network utility operator that it is entitled by statute to undertake in a public place and provided all otherwise necessary authorisation is obtained.

8 Obstructions in any public place

- (1) Except with the prior written approval of Auckland Transport, a person must not:
 - (a) place or leave any material, object, thing or structure in a public place;
 - (b) erect, construct, or place a building, structure, tent or projection of a building, structure or any part thereof, on, under, over or across a public place;
 - (c) allow vegetation to encroach over a public place in a manner that may cause a nuisance to any person or an obstruction to traffic;
 - (d) hang a door or gate on any premises capable of being swung over or across or otherwise encroaching on a public place;
 - (e) store or pack goods on a public place.

9 Additional controls for public transport infrastructure and roads

- (1) Auckland Transport may restrict or close entry to all or any portion of any public transport infrastructure during such times as are considered necessary to prevent damage to, ensure public safety in or around, or allow maintenance of that infrastructure.
- (2) Auckland Transport may temporarily set aside the whole or part of any public transport infrastructure not needed for the provision of public transport services for the exclusive use of particular groups or for specified activities during set times and may charge for the exclusive use of any or part of any public transport infrastructure.
- (3) In addition to any other control that applies to a public place, a person must not:
 - (a) enter any public transport infrastructure that is closed to the public;
 - (b) carry any firearm, airgun, or restricted weapon (as defined in section 2 of the Arms Act 1983) that is loaded with a bullet, cartridge, missile, or projectile, whether in its breech, barrel, chamber, or magazine in any public transport infrastructure;
 - (c) possess any item of a dangerous nature in any public transport infrastructure;
 - (d) misuse or interfere with any safety equipment or warning device or notice on or within public transport infrastructure except with the prior written approval of Auckland Transport;

- (e) except in the case of an emergency, as part of an emergency services operation or with the prior written approval of Auckland Transport:
 - (i) land or take off in an aircraft from a road or public transport infrastructure;
 - (ii) use an aircraft to set down, pick up, or recover any person, animal, carcass, or article of any description on or from a road or public transport infrastructure.
- (f) leave any gate in a different position from that which that person finds it. Gates found open must be left open and gates found closed must be left closed;
- (g) clean or leave any fish or fish offal on a road or public transport infrastructure.

10 Street naming and numbering on buildings

- (1) For the avoidance of doubt, no person except Auckland Transport may paint, erect or affix a name on a road.
- (2) For the avoidance of doubt, Auckland Transport has the exclusive right to paint, erect or affix on a conspicuous part of a building, the name of the road to which it has frontage.
- (3) No person may wilfully or maliciously destroy, pull down, obliterate, or deface the name of a road or public place or the number of any premises.
- (4) Every allotment of land issued with a computer register under the Land Transfer Act 1952 that is occupied by a person or building must be marked by the owner, manager or occupier with a street number approved by the council.
- (5) The following exceptions apply to subclause (4):
 - (a) for any unit pursuant to the Unit Titles Act 2010, at least one street number must mark the land comprising all the units and common property within the unit plan deposited under the Land Transfer Act 1952;
 - (b) for any contiguous allotments of land under single management for a common purpose including an educational institution, industrial complex, or shopping mall, at least one street number must mark the contiguous allotments and must be accompanied by the name of the institution, complex or other such common purpose.
- (6) Every number and name under this clause must be:
 - (a) legible and clearly visible from the public place to which the premises has frontage;
 - (b) in characters not less than 75 millimetres in height for residential buildings and not less than 150 millimetres in height for all other buildings;

- (7) Numbers of premises must be maintained by the owner, manager or occupier in a manner that clearly identifies the premises.

Part 3 Enforcement Powers

11 Compliance with the bylaw

- (1) Auckland Transport may use its powers under the Local Government Act 2002 and the Land Transport Act 1998 to enforce this bylaw.

12 Removal of material or things

- (1) In addition to the powers conferred on it by any other enactment, Auckland Transport may remove or cause to be removed from any public place any material or thing using that public place in breach of the bylaw.
- (2) Auckland Transport may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing.

13 Removal of construction

- (1) Auckland Transport may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 4 Offences and Penalties

14 Bylaw breaches

- (1) A person who fails to comply with Part 2 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Land Transport Act 1998.

Part 5 Savings, Transitional Provisions and Revocation

15 Savings and transitional provisions

- (1) This clause applies to:
- (a) Auckland City Council No 20 - Public Places Bylaw (2008);

- (b) Franklin District Council Public Places Bylaw 2007;
 - (c) Chapter 9 (General Nuisance, Safety and Behaviour in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (d) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 2 (Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Public Places Bylaw 2008;
 - (g) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;
 - (i) Waitakere City Council Public Places Bylaw 2010.
- (2) Any resolution or other decision made under the bylaws referred to in clause 16(1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by Auckland Transport under this bylaw.
- (3) Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 16(1) continues in force but:
- (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for a licence, consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 16(1) that was filed before the day on which this bylaw commences must be dealt with by Auckland Transport as if it had been made under this bylaw.

16 Revocation

- (1) Provisions of the following bylaws that apply to the roads and public transport infrastructure under the care, control, or management of Auckland Transport are revoked to the extent that the matters covered by those provisions are covered by corresponding provisions in this bylaw:
- (a) Auckland City Council No 20 - Public Places Bylaw (2008);
 - (b) Franklin District Council Public Places Bylaw 2007;
 - (c) Chapter 9 (General Nuisance, Safety and Behaviour in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;

- (d) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;
- (e) Part 2 (Public Places) of the North Shore City Council Bylaw 2000;
- (f) Papakura District Council Public Places Bylaw 2008;
- (g) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;
- (h) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;
- (i) Waitakere City Council Public Places Bylaw 2010.

Comparison between the notified and amended versions of the Auckland Transport Public Safety and Nuisance Bylaw 2013

Additions underlined

Deletions ~~strikethrough~~

AT Bylaw Clause	Notified version	Proposed amendment	Reasons for proposed amendment
5 Interpretation	<p>Mind altering substance means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:</p> <p>(a) medically prescribed substances ingested by the person for whom they were prescribed;</p> <p>(b) substances purchased from a pharmacy without a medical prescription;</p> <p>(c) nicotine;</p> <p>(d) alcohol as defined in the Sale of Liquor Act 1989.</p>	<p>Mind altering substance means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:</p> <p>(a) medically prescribed substances ingested by the person for whom they were prescribed;</p> <p>(b) substances purchased from a pharmacy without a medical prescription;</p> <p>(c) nicotine;</p> <p>(d) alcohol as defined in the Sale of Liquor Act 1989 <u>Sale and Supply of Alcohol Act 2012</u>.</p>	<p>Definition of "mind altering substance" is derived from Standards New Zealand Model Bylaws written in 1999 which used the definition of "alcohol" in the Sale of Liquor Act 1989. That Act is being repealed and replaced by the Sale and Supply of Alcohol Act 2012.</p>
5 Interpretation	<p>Nuisance has the same meaning as Section 29 of the Health Act 1956 and includes a person animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person.</p>	<p>Nuisance has the same meaning as section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person <u>whether or not that person is in a public place</u>.</p>	<p>A number of submitters commented on the impact of activities occurring on a public place that cause a nuisance on those living adjacent to that public place. The Panel advised they would like to see some wording to address this.</p>
6(1)(b) Nuisances, safety and behaviour in any	<p>6(1) A person must not use a public place to:</p> <p>(b) create a nuisance through the use or playing of any instrument</p>	<p>6(1) A person must not use a public place to:</p> <p>(b) create a nuisance through the use or playing of any</p>	<p>Council's Compliance Officers noted difficulty in proving "unreasonable" noise and recommended</p>

AT Bylaw Clause	Notified version	Proposed amendment	Reasons for proposed amendment
public place	(musical or otherwise), any type of public address system or any type of amplified sound system, or from making any unreasonable sound or noise;	instrument (musical or otherwise), any type of public address system or any type of amplified sound system, or from making any unreasonable <u>excessive</u> sound or noise;	this be amended to “excessive” noise – which has been defined under the Resource Management Act 1991. The Panel agreed with amending the wording.
6(1)(c) Nuisances, safety and behaviour in any public place	(1) A person must not use a public place to: (c) use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;	(1) A person must not use a public place to: (c) use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, <u>shopping trolley</u> or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;	A submission was received requesting inclusion of shopping trolleys on the basis that their abandonment in public places (parks) is a nuisance. While shopping trolleys are also addressed in the Solid Waste Bylaw 2012 as a litter issue it is proposed that shopping trolleys as a nuisance issue is included in the Public Safety and Nuisance Bylaw. The Panel advised they would like to see them added.
6(1)(f) Nuisances, safety and behaviour in any public place	(1) A person must not use a public place to: (f) ask for money, food, or other items for personal use or solicit donations in a manner that may intimidate or cause a nuisance to any person;	(1) A person must not use a public place to: (f) <u>beg</u> , or ask for money, food, or other items for personal use or solicit donations in a manner that may intimidate or cause a nuisance to any person;	Several submissions commented on including the word “beg” as it makes it definitive. The draft wording was effectively the definition of ‘beg’ so the actual word should be added. The Panel advised that they would like to see the word used. The Panel supported the qualifier (i.e “in a manner... cause a nuisance..”) as it would not mean a total ban on begging. The Panel recognised that the inclusion of the

AT Bylaw Clause	Notified version	Proposed amendment	Reasons for proposed amendment
			qualifier would enable discretion when it comes to enforcement.
6(1)(g) Nuisances, safety and behaviour in any public place	(1) A person must not use a public place to: (g) to wash or offer to wash a vehicle or any part thereof in a manner that is unsafe or may intimidate or cause a nuisance to any person, or cause an obstruction to traffic.	(1) A person must not use a public place to: (g) to wash or offer to wash a vehicle or any part thereof, in a manner that <u>may be</u> unsafe or may intimidate or cause a nuisance to any person, or cause an obstruction to traffic.	It is proposed to amend the wording by moving "may" before the word "unsafe" for clarity so that it is clear that it covers window washing that is undertaken in a manner that can have an impact on the safety of both the public and those engaged in the activity.
6(2)(b) Nuisances, safety and behaviour in any public place	(2) Except at a facility or site or appliance specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to: (b) light a fire;	(2) Except at a facility <u>or site or appliance</u> specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to: (b) light a fire <u>(except in an appliance designed for outdoor cooking subject to any restriction imposed by Auckland Transport on the lighting of fires).</u>	Parks officers and officers reviewing the outdoor fires bylaws noted that the notified wording was too restrictive as it would effectively exclude anyone from using a portable barbecue or cooking appliance in a park and recommended an amendment to the clause. The Panel accepted this recommendation.
6(2) Nuisances, safety and behaviour in any public place	(2) Except at a facility or site or appliance specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to: (c) set off any fireworks, flares or any other explosive material.	(2) Except at a facility <u>or site or appliance</u> specifically provided, or with the prior written approval of Auckland Transport a person must not use a public place to: (c) set off any fireworks, flares or any other explosive material. Clause 6(2)(c) will be replaced by a new clause 6(3) (see below).	One submitter commented on the effects of fireworks on public places adjacent to private property. The Panel noted they would like to see wording which would address this.
6(3) Nuisances, safety and behaviour	6(2)(c)	Amend clause 6(2)(c) which now becomes 6(3). A person must not set	As per the reasons above, the revised wording is intended to address the above

AT Bylaw Clause	Notified version	Proposed amendment	Reasons for proposed amendment
in any public place		<p><u>off fireworks, flares or any other explosive material:</u> <u>(a) In a public place, except with the prior written approval of Auckland Transport;</u> <u>and</u> <u>(b) In any other place, in a way that does or is likely to create a nuisance or endanger any person, property, dog or other animal in a public place.</u></p>	<p>submission regarding fireworks in public places.</p>
7(1)(a)(iii) Damage in any public Place	<p>(1) Except with the prior written approval of Auckland Transport, a person must not cause damage on a public place including but not limited to: (a) damaging, removing, disturbing or interfering with any property that is under the control of Auckland Transport, including any archaeological, heritage, historic or waahi tapu site, any structure, street furniture, artefact, surface, natural feature, grass plot, flowerbed, tree, shrub or plant</p>	<p>(1) Except with the prior written approval of Auckland Transport, a person must not cause damage on a public place including but not limited to: (a) damaging, removing, disturbing or interfering with any property that is under the control of Auckland Transport, including: (i) any archaeological, heritage, historic or waahi tapu site; and (ii) any structure, street furniture, artefact, surface, natural feature, grass plot, flowerbed, tree, shrub or plant; and <u>(iii) any furnishing, fitting or equipment in a building accessible by the public;</u></p>	<p>The Council's Library Officers have recommended that this be added to address any potential damage done to library property. The clause has also been revised for clarity. The Panel accepted this recommendation.</p>
7(3) Damage in any public place	<p>No subclause (3)</p>	<p><u>(3) Clause 7(1) does not apply to work by a network utility operator that it is entitled by statute to undertake in a public place and provided any otherwise necessary authorisation is obtained.</u></p>	<p>Two submissions were received from network utility operators, plus discussions with Watercare Services Ltd, where all parties wanted to see an 'exemption' clause regarding the approval process for those undertaking works in</p>

AT Bylaw Clause	Notified version	Proposed amendment	Reasons for proposed amendment
			public places (road reserves and parks). The reason is that the "Corridor Access Request (CAR)" process establishes prior approval for network utility operators to undertake works within the road and road reserves. The Panel accepted this recommendation.
8(1)(b) Obstructions in any public place	(1) Except with the prior written approval of Auckland Transport, a person must not use a public place to: (b) erect, construct, or place a building, or other structure, or projection of a building or structure or any part thereof, on, under, over or across a public place;	(1) Except with the prior written approval of Auckland Transport, a person must not use a public place to: (b) erect, construct, or place a building, or other structure, <u>tent</u> or projection of a building or structure or any part thereof, on, under, over or across a public place;	One submitter commented on tents in parks causing obstructions citing that the former Manukau City Council bylaw had specific requirements for tents that were erected for the purposes of shade and that some tents can have an impact in terms of visual and physical obstructions. The Panel asked for tents to be included in this list but for certain exceptions to this rule to be allowed for in the council bylaw for parks but not in the AT bylaw for roads.



Public Safety and Nuisance Bylaw 2013
Te Ture ā-Rohe Marutau ā-Iwi me te Whakapōrearea
2013

26 May 2014

Governing Body of Auckland Council

Resolution in Council

22 August 2013

Pursuant to Local Government Act 2002, the Local Government (Auckland Council) Act 2009 and the Health Act 1956, the Governing Body of Auckland Council revokes and replaces bylaws about nuisance and public safety with the following bylaw.

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- 1 Title**
 This bylaw is the Public Safety and Nuisance Bylaw 2013.
- 2 Commencement**
 This bylaw comes into force on 26 May 2014.
- 3 Application**
 This bylaw applies to Auckland.

**Part 1
 Preliminary provisions**

- 4 Purpose**
- (1) The purpose of this bylaw is to:
- (a) protect the public from nuisance, promote and maintain public health and safety and minimise the potential for offensive behaviour in public places;
 - (b) manage and protect from damage or misuse land, structures, property and assets owned, managed or under the control of the council;
 - (c) regulate the display of street names and the identification and numbers of premises.

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Act means the Local Government Act 2002.

Aircraft means a fixed wing aircraft, helicopter, glider, dirigible, hot air balloon, parachute, hang glider, para glider, kite or model aircraft, whether powered or not powered.

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: "Auckland means the area within the boundaries determined by the Local Government Commission under section 33(1) (as that determination is given effect to by Order in Council under section 35(1))."

Beach means the foreshore (including the inter-tidal zone above the mean low water spring) and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation and includes the adjacent coastal marine area.

Coastal marine area has the meaning given in the Resource Management Act 1991.

Council, for the purposes of this bylaw, means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf.

Explanatory note: the governing body may delegate its decision-making responsibilities to local boards for any decisions under this bylaw, in accordance with section 31 of the Local Government (Auckland Council) Act 2009.

Council controlled organisation has the same meaning as **substantive council controlled organisation** in the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: "substantive council-controlled organisation"—

- (a) *means a council-controlled organisation that is either wholly owned or wholly controlled by the Council and either—*
 - (i) *is responsible for the delivery of a significant service or activity on behalf of the Council;*
 - or
 - (ii) *owns or manages assets with a value of more than \$10 million; and*
- (b) *includes Auckland Transport."*

Mind altering substance means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) nicotine;
- (d) alcohol as defined in the Sale and Supply of Alcohol Act 2012.

Nuisance has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Explanatory note: section 29 states: Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:

- (a) *where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (b) *where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:*
- (c) *where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:*
- (d) *where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:*
- (e) *[Repealed]*
- (f) *where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:*
- (g) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:*
- (h) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:*
- (i) *where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:*
- (j) *where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:*

- (k) *where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:*
- (ka) *where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:*
- (l) *where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:*
- (m) *where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:*
- (n) *where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:*
- (o) *where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:*
- (p) *where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:*
- (q) *where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.*

Park means-

- (a) any land vested in or administered by the council under the provisions of the Reserves Act 1977; or
- (b) any park, domain or recreational area under the control or ownership of the council.

Parks management plan means an adopted management plan for any regional or local park.

Person includes a corporation sole, a body corporate, and an unincorporated body.

Premises means any separately occupied land, building, or part of the same.

Public place—

- (a) 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; and
- (b) includes any hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

Road has the meaning given by the Local Government Act 1974.

Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—

- (a) *immediately before the commencement of this Part was a road or street or public highway; or*
- (b) *immediately before the inclusion of any area in the district was a public highway within that area; or*
- (c) *is laid out by the council as a road or street after the commencement of this Part; or*
- (d) *is vested in the council for the purpose of a road as shown on a deposited survey plan; or*

- (e) *is vested in the council as a road or street pursuant to any other enactment;— and includes—*
- (f) *except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:*
- (g) *every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;— but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roadway Powers Act 1989*

Vehicle has the meaning given by the Land Transport Act 1998.

Explanatory note: section 2(1) states: Vehicle-

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*
- (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
- (c) *does not include-*
 - (i) *a perambulator or pushchair;*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power;*
 - (iii) *a wheelbarrow or hand-trolley;*
 - (iv) *a pedestrian-controlled lawnmower;*
 - (v) *a pedestrian-controlled agricultural machine not propelled by mechanical power;*
 - (vi) *an article of furniture;*
 - (vii) *a wheelchair not propelled by mechanical power;*
 - (viii) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;*
 - (ix) *any rail vehicle.*

Waahi tapu means a place sacred to Māori.

- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Act and used in this bylaw, but not defined, has the meaning given by the Act.
- (4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

Part 2

Public Safety, Nuisance, General Behaviour and Street Naming and Numbering

6 Nuisances, safety and behaviour in any public place

- (1) A person must not use a public place to:
 - (a) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place;

- (b) create a nuisance through the use or playing of any instrument (musical or otherwise), any type of public address system or any type of amplified sound system, or from making any excessive sound or noise;
 - (c) use any material or thing (including a vehicle, bicycle, motorised scooter, model aircraft, skateboard, roller skates or roller blades, shopping trolley or similar object) recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person;
 - (d) install or maintain a fence (including a razor-wire and electric fence) in a manner that may cause an injury or nuisance to any person;
 - (e) consume, inject or inhale or distribute or offer for sale any mind-altering substance;
 - (f) beg, in a manner that may intimidate or cause a nuisance to any person;
 - (g) wash or offer to wash a vehicle or any part thereof, in a manner that may be unsafe or intimidate or cause a nuisance to any person, or cause an obstruction to traffic.
- (2) Except at a facility or site specifically provided, or with the prior written approval of the council or a council controlled organisation, a person must not use a public place to:
- (a) display or fix any graffiti, posters, signs or advertising devices on any property that is under the control of the council or a council controlled organisation;
 - (b) light a fire (except in an appliance designed for outdoor cooking subject to any restriction imposed by the council on the lighting of fires).
- (3) A person must not set off fireworks, flares or any other explosive material:
- (a) In a public place, except with the prior written approval of the council or a council controlled organisation; and
 - (b) In any other place, in a way that does or is likely to create a nuisance or endanger any person, property, dog or other animal in a public place.

7 Damage in any public place

- (1) Except with the prior written approval of the council or a council controlled organisation, a person must not cause damage on a public place including but not limited to:
- (a) damaging, removing, disturbing or interfering with any property that is under the control of the council or a council controlled organisation, including:
 - (i) any archaeological, heritage, historic or waahi tapu site; and
 - (ii) any structure, street furniture, artefact, surface, natural feature, grass plot, flowerbed, tree, shrub or plant; and
 - (iii) any furnishing, fitting or equipment in a building accessible by the public;
 - (b) polluting, damaging, placing any obstruction in, or interfering with any water course or stormwater drain or channel;
 - (c) placing a structure, opening a drain or disturbing a surface that is likely to be injurious to or cause a nuisance to any person or to cause damage to that public place;
 - (d) depositing, moving or removing rock, shingle, sand, vegetation, or any material or artefact; or
 - (e) removing or damaging any tree, shrub or plant of any kind or part thereof or planting, sowing or scattering the seed of any tree, shrub or plant of any kind.
- (2) This clause does not prevent any person from maintaining the grass verge on any road adjacent to their premises.

- (3) Clause 7(1) does not apply to work by a network utility operator that it is entitled by statute to undertake in a public place and provided all otherwise necessary authorisation is obtained.

8 Obstructions in any public place

- (1) Except with the prior written approval of the council or a council controlled organisation, a person must not use a public place to:
- (a) place or leave any material, object, thing or structure;
 - (b) erect, construct, or place a building structure, tent or projection of a building structure or tent or any part thereof, on, under, over or across a public place;
 - (c) allow vegetation to encroach over a public place in a manner that may cause a nuisance to any person or an obstruction to traffic;
 - (d) hang a door or gate on any premises capable of being swung over or across or otherwise encroaching on a public place;
 - (e) store or pack goods on a public place.
- (2) Clause 8(1)(b) does not apply to tents or similar structures and any supporting fixtures (including ropes and pegs) that are erected temporarily for the purposes of providing shade and:
- (a) do not impede or obstruct the movement of any vehicles or person or cause a nuisance; and
 - (b) are of a size that do not create a visual obstruction.

9 Additional controls for parks and beaches

- (1) The council may restrict or close entry to all or any portion of a park or beach during such times as are considered necessary to prevent damage to, ensure public safety in or around, or allow maintenance of the park or beach.
- (2) The council may temporarily set aside whole or part of a park or beach for the exclusive use of particular groups or for specified activities during set times. The council may charge for the exclusive use of any or part of a park or beach.
- (3) The council may make controls to prohibit or restrict any recreational activity on the whole or part of any beach, during such times and/or seasons as are considered necessary, to ensure public safety and prevent nuisance. Recreational activities include:
- (a) fishing activities (for example, set-netting and surfcasting); and
 - (b) other activities that may cause a nuisance or endanger public safety.
- (4) The council must ensure public notice is given of any control made under subclause (3), in a manner that the council considers appropriate in the circumstances.
- (5) In addition to any other control that applies to a public place, a person must not:
- (a) enter a park or beach or any part thereof that is closed to the public;
 - (b) except in the case of an emergency, or with the prior written approval of the council:
 - (i) land or take off in an aircraft from a park or beach;
 - (ii) use an aircraft to set down, pick up, or recover any person, animal, carcass, or article of any description on or from a park or beach.
 - (c) engage in any recreational activity that is prohibited or restricted by the council on a park or beach, or any part thereof;
 - (d) enter in or remain on any part of a park or beach marked out for a recreational activity while that recreational activity is in progress unless that person is a competitor, participant or official taking part in the recreational activity;

Parks

- (e) drive, ride, propel or wheel any vehicle on a park except on places specified by the council for the driving or riding of vehicles and subject to any controls that the council specifies;
- (f) park any vehicle except in a place set aside on a park by the council for parking and subject to any controls that the council may specify;
- (g) engage in any activity on a park that is prohibited or restricted by a parks management plan;
- (h) enter or remain on a park for the purpose of carrying out any activity for which approval from the council is required under a parks management plan or other regulation without that approval;
- (i) leave any gate on a park in a different position from that which that person finds it. Gates found open must be left open and gates found closed must be left closed;
- (j) stop or stand a vehicle or leave a bicycle on a park in such a place that it causes or is likely to cause obstructions to any entrance, thoroughfare, path or track;
- (k) possess or use any weapon, trap or instrument of a dangerous nature on a park.
- (l) remove, harm or kill any animal or release or lose control of any animal under that person's control.

Beaches

- (m) except in the case of an emergency, or with the prior written approval of the council, drive, ride, propel or wheel or park any vehicle on a beach. This restriction does not apply to any person driving a vehicle by a direct route at a speed not exceeding 10km/h on a beach where vehicular access is permitted, to deposit or retrieve a boat in the water. Every vehicle must be removed from the beach immediately upon retrieval or depositing of the boat;
 - (n) leave a boat on a beach –
 - (i) in any place that is prohibited or restricted by the council; or
 - (ii) in a way that causes an obstruction or a nuisance;
 - (o) obstruct access to boat ramps or boat launching facilities on a beach;
 - (p) clean or leave any fish or fish offal on a beach;
 - (q) except in the case of an emergency, or with the prior written approval of the council use or interfere with any lifesaving equipment or warning device or notice on a beach;
- (6) Clause 9(5) does not apply to council officers or other authorised persons undertaking the council's functions, duties and powers.
- (7) Any control specified by the council under this clause may:
- (a) prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;
 - (b) apply to all park and beaches, a specified park or beach or any specified part of a park or beach;
 - (c) apply to Auckland or to a specified part of Auckland;
 - (d) apply at all times or at any specified time or period of time.

10 Street naming and numbering on buildings

- (1) For the avoidance of doubt, no person except Auckland Transport may paint, erect or affix a name on a road.
- (2) For the avoidance of doubt, Auckland Transport has the exclusive right to paint, erect or affix on a conspicuous part of a building, the name of the road to which it has frontage.
- (3) No person may wilfully or maliciously destroy, pull down, obliterate, or deface the name of a road or public place or the number of any premises.

- (4) Every allotment of land issued with a computer register under the Land Transfer Act 1952 that is occupied by a person or building must be marked by the owner, manager or occupier with a street number approved by the council.
- (5) The following exceptions apply to subclause (4):
 - (a) For any unit pursuant to the Unit Titles Act 2010, at least one street number must mark the land comprising all the units and common property within the unit plan deposited under the Land Transfer Act 1952;
 - (b) For any contiguous allotments of land under single management for a common purpose including an educational institution, industrial complex, or shopping mall, at least one street number must mark the contiguous allotments and must be accompanied by the name of the institution, complex or other such common purpose.
- (6) Every number and name under this clause must be:
 - (a) legible and clearly visible from the public place to which the premises has frontage;
 - (b) in characters not less than 75 millimetres in height for residential buildings and not less than 150 millimetres in height for all other buildings;
- (7) Numbers of premises must be maintained by the owner, manager or occupier in a manner that clearly identifies the premises.

Part 3 Enforcement Powers

11 Compliance with the bylaw

- (1) The council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

12 Removal of material or things

- (1) In addition to the powers conferred on it by any other enactment, the council may remove or cause to be removed from any public place any material or thing using that public place in breach of the bylaw.
- (2) The council may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing.

13 Removal of construction

- (1) The council may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or thing that has been constructed in breach of this bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 4 Offences and Penalties

14 Bylaw breaches

- (1) A person who fails to comply with Part 2 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.
- (2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

Part 5
Savings and transitional provisions

15 Savings and transitional provisions

- (1) This clause applies to:
 - (a) Auckland Regional Council Parks Bylaw 2007;
 - (b) Auckland City Council No 20 - Public Places Bylaw (2008);
 - (c) Franklin District Council Public Places Bylaw 2007;
 - (d) Franklin District Council Beach Control Bylaw (2006);
 - (e) Chapter 9 (General Nuisance Safety Behaviour) of the Manukau City Consolidated Bylaw 2008;
 - (f) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;
 - (g) Part 2 (Public Places) of the North Shore City Council Bylaw 2000;
 - (h) Papakura District Council Public Places Bylaw 2008;
 - (i) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;
 - (j) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;
 - (k) Waitakere City Council Public Places Bylaw 2010.
- (2) Any resolution or other decision made under the bylaws referred to in clause 15(1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the council under this bylaw.
- (3) Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 15(1) continues in force but:
 - (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for a licence, consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 15(1) that was filed before the day on which this bylaw commences must be dealt with by the council as if it had been made under this bylaw.

Additional Information to Public Safety and Nuisance Bylaw 2013

This document contains matters for information purposes only and do not form part of any bylaw. They include matters made pursuant to a bylaw and other matters to assist in the ease of understanding, use and maintenance.

The information contained in this document may be updated at any time.

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Section 1

History of Bylaw

Action	Description	Date of Decision	Decision Reference	Commencement
Make	<p>Following public safety and nuisance bylaws in force on 31 Oct 2010 deemed to have been made by Auckland Council</p> <p>(a)Auckland Regional Council Parks Bylaw 2007;</p> <p>(b)Auckland City Council No 20 - Public Places Bylaw (2008);</p> <p>(c)Franklin District Council Public Places Bylaw 2007;</p> <p>(d)Franklin District Council Beach Control Bylaw (2006);</p> <p>(e)Chapter 9 (General Nuisance Safety Behaviour) of the Manukau City Consolidated Bylaw 2008;</p> <p>(f) Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008;</p> <p>(g)Part 2 (Public Places) of the North Shore City Council Bylaw 2000;</p> <p>(h)Papakura District Council Public Places Bylaw 2008;</p> <p>(i) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998;</p> <p>(j) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998;</p> <p>(k)Waitakere City Council Public Places Bylaw 2010.</p>	01 Nov 2010	Section 63 Local Government (Auckland Transitional Provisions) Act 2010	01 Nov 2010
Revoke	<p>The following clauses in</p> <p>(a)Auckland Regional Council Parks Bylaw 2007;</p> <p>1.0, 1.1, 1.2, 1.3, 1.4, 2.0, 2.1, 3.0, 3.1 (a) – (c), (e) – (f), 4.0, 4.1 (b) – (k) 4.2, 4.3, 5.0, 5.1 (a) – (e), 6.0, 6.1 (a), (c), (e), (g), 6.2, 6.3, 7.0, 7.1 (a) – (d)</p> <p>(b)Auckland City Council No 20 - Public Places Bylaw</p>	TBC	TBC	TBC

Action	Description	Date of Decision	Decision Reference	Commencement
	<p>(2008);</p> <p>20.1, 20.1.1 (excludes definition of 'event' , 'street trading', 'street performance' and 'temporary activity'), 20.1.2, 20.2, 20.2.1(a) ,(b),(c),(d),(e), 20.2.2 (a),(b),(c), 20.2.3(a) - (b); 20.3, 20.3.1 (a),(b),(c),(d),(e),(f),(h),(i) ,(j) ,(k),(l),(m),(n),(o),(p),(q),(r),(s) ,(t),(w),(x), 20.3.2, 20.3.3,20.3.4(a),(b), 20.4, 20.4.1(a)(i) (ii),20.4.1(b),20.5,20.5.1,20.5.2(a),(b),20.5.3 (a) - (c) , 20.5.4, 20.5.5, 20.5.6, 20.5.7. (c)Franklin District Council Public Places Bylaw 2007; 1, 2, 2.(1), 2.(2), 2.(3), 3, 3.1, 3.2, 4, 5, 5.(1) (a) – (k), 5.(2), 5.(3), 5.(4), 5.(5)(a), 6 (a) – (d), 7.(1) (a) – (i) , 7.(2), 8(a) – (c), 10, 12(a) – (b), 13, 14(1) – (3), 15.(1) – (3), 16(1) – (2), 18(1) – (5), 19.</p> <p>(d)Franklin District Council Beach Control Bylaw (2006); Except for First Schedule</p> <p>(e) Trading in Public Places Bylaw (2008) 6 (1)</p> <p>(f) Chapter 7 (Events and Trading in Public Places and Parks) of the Manukau City Consolidated Bylaws 2008; 3.1 (a)</p> <p>(g)Chapter 9 (General Nuisance Safety Behaviour) of the Manukau City Consolidated Bylaw 2008; 1, 1.1, 2, 2.1, 3, 3.1 (a) – (k), 5, 5.1 (a) – (j), 6, 6.1 (a) – (g),6.2, 7, 7.1(a) – (n), 8.1 9a) – (d)</p> <p>(h)Chapter 17 (Street Names and Numbering of Premises) of the Manukau City Consolidated Bylaw 2008.</p> <p>ALL</p> <p>(i) Part 2 (Public Places) of</p>			

Action	Description	Date of Decision	Decision Reference	Commencement
	<p>the North Shore City Council Bylaw 2000; 2.1 (a) – (e) , 2.2, 2.2.1 (a) – (d) , (f), 2.2.3 (a) – (c), 2.2.4 (a) - (c), 2.3, 2.3.1 (a) – (f) , 2.3.1 (h) – (i) , 2.3.2 (a) – (b), 2.3.3 (a) – (b), 2.4, 2.4.1 (a) – (h), 2.5, 2.5.1(a) – (e), 2.5.1 (g), 2.5.1 (i) - (k) , 2.5.1 (m) – (r), 2.5.2 (a), - (d), 2.5.3 (a) – (d), 2.6, 2.6.1 (a) – (b) , 2.6.2 (a) – (c) , 2.6.3, 2.6.4, 2.7, 2.7.1, 2.7.2 (a) – (c) -, 2.7.3, 2.7.4, 2.8, 2.8.1 (a) – (b), 2.8.2 (a) – (b), 2.8.3, 2.9, 2.9.1 (a) – (c) , 2.9.2 (a) – (c), 2.10, 2.10.1 (a) - (d), 2.12, 2.12.1, 2.12.2, 2.12.3 (a) – (b), 2.12.4, 2.12.5 (a) – (b), 2.12.6, 2.12.7</p> <p>(j) Part 3 – Trading in Public Places (2000) Bylaw 3.5.1</p> <p>(k) Papakura District Council Public Places Bylaw 2008; 1, 2, 3, 3.1(a) – (f) , 3.2 (a) – (c), 3.3, 3.4(a), 4, 4.1 (a) – (d), 5, 5.1 (a) – (g), 5.2, 5.3, 7., 7.1, 7.2, 7.3, 10, 10.1, 11, 11.1, 11.2, 11.3, 12, 12.1, 12.2, 13, 13.1, 13.2, 13.3, 13.4, 15, 15.1, 16, 16.1, 16.2, 16.3, 16.4, 17, 17.1, 17.2, 17.3, 17.4, Second schedule</p> <p>(l) Chapter 8 (Public Places) of the Rodney District Council General Bylaw 1998; 1.0. 1.1, 2.0, 3.0, 3.1,(a), - (c), 3.1 (e), 3.2, 4.0, 4.1(b) – (d) , 4.2 (b), 5.0, 5.1, 6.0, 6.1 (b) – (c), 6.1 (e) – (j)</p> <p>(m) Chapter 9 (Road Crossings and Numbering of Premises) of the Rodney District Council General Bylaw 1998; 1.0, 1.1, 2.0, 2.1, 2.2, 2.3, 3.0, 3.1, 7.0, 7.1, 8.0, 8.1, 8.2, 9.0, 9.1, 9.2, 9.3</p> <p>(n) Waitakere City Council</p>			

Action	Description	Date of Decision	Decision Reference	Commencement
	Public Places Bylaw 2010. 1, 2, 3, 3.1, 4, 4.1, 4.2, 5, 5.1 (a) – (c), 5.1 (f) – (j), 5.1 (n), 5.1 (p) – (r), 5.1 (t), 5.2, 6, 6.1 (a) – (h), 6.1 (j) – (l), 6.1 (n) – (s), 7, 7.1 (b) – (e), 7.2 (a) – (e), 8, 8.1, 8.2 (a) – (c), 9, 10, 10.1 (a), (c) – (h), 11, 11.1 (a) – (c), 14.1 (b), 15.1 (a) – (b); 15.2 (a) – (c), 15.3 (a), 15.4(a), 16.1, 16.2, 16.3 (a) – (b), 16.4 (a) – (b), 16.5 (a) – (b), 16.6, 16.7, 16.8.			
Make	Public Safety and Nuisance Bylaw 2013	TBC	TBC	TBC

Section 2

Related Documents

Document Title	Description of Document	Location of Document
Decision Minutes and Agenda	Decisions on submissions to proposed public safety and nuisance bylaw	TBC
Hearings Report	Background and summary of submissions to proposed public safety and nuisance bylaw	TBC
Public Safety and Nuisance Bylaw Review Statement of Proposal	Provides background to the public safety and nuisance bylaw	TBC
Long Term Plan	Outlines financial plans	www.aucklandcouncil.govt.nz
Annual Plan	Sets fees	TBC
The Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
The Health Act 1956	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Local Government (Auckland Transitional Provisions) Act 2010	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws	www.legislation.govt.nz
Interpretation Act 2009	Provides for certain matters related to the interpretation of bylaws	www.legislation.govt.nz

Section 3

Delegations

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
All	All powers, duties and functions.	Licensing and Compliance department - Tier 6 (enforcement officers)	TBC	TBC	TBC
9 (1) – (2) Additional controls for parks and beaches	Restricting or closing entry or portion of a beach / park	Tier 6 Parks Officers / Rangers Parks, Sports and Recreation. Tier 6 (enforcement officers) Licensing and Compliance departments	TBC	TBC	TBC
9 (3) – (4) Additional controls for parks and beaches	Making controls to prohibit/restrict recreational activities in a beach	Tier 6 Parks Officers / Rangers Parks, Sports and Recreation. Tier 6 (enforcement officers) Licensing and Compliance departments Tier 4 Manager Parks, Sports and Recreation Tier 4 Manager Licensing and Compliance	TBC	TBC	TBC
9 (5) – (6) Additional	Other activities on	Tier 6 Parks Officers /	TBC	TBC	TBC

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
controls for parks and beaches	parks and beaches	Rangers Parks, Sports and Recreation. Tier 6 (enforcement officers) Licensing and Compliance departments			
10	Power to name streets and allocate numbers	Local boards	TBC	TBC	TBC

Section 4

Enforcement Powers

Legislative Provision	Description of Legislative Provision
Part 8 of Local Government Act 2002	162 Injunctions restraining commission of offences and breaches of bylaws 163 Removal of works in breach of bylaws 164 Seizure of property not on private land 165 Seizure of property from private land 168 Power to dispose of property seized and impounded 171 General power of entry 172 Power of entry for enforcement purposes 173 Power of entry in cases of emergency 175 Power to recover for damage by wilful or negligent behaviour 176 Costs of remedying damage arising from breach of bylaw 178 Enforcement officers may require certain information 183 Removal of fire hazards 185 Occupier may act if owner of premises makes default 186 Local authority may execute works if owner or occupier defaults 187 Recovery of cost of works by local authority 188 Liability for payments in respect of private land
Health Act 1956	23 General powers and duties of local authorities in respect of public health 30 Penalties for permitting or causing nuisances 33 Proceedings in respect of nuisances 34 Power to abate nuisance without notice 65 General provisions as to bylaws 66 Penalties for breach of bylaws 137 Offences punishable on summary conviction

Section 5

Offences and Penalties

Legislative provision	Description of offence	Fine	Infringement fee	Other penalty
cl 14(1)	A person who fails to comply with Part 2 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.	<p>Under section 242 of the Local Government Act 2002 person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.</p> <p>Under section 66 of the Health Act 1956, a person who breaches a bylaw is liable to a fine not exceeding \$500 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence has continued.</p>	nil	
cl14(2)	A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.	<p>Under section 15(1) of the Litter Act 1979, in the case of an individual, to a fine not exceeding \$5,000 or, in the case of a body corporate, to a fine not exceeding \$20,000,</p> <p>Under section 15(2) of the Litter Act 1979, if it is of such a nature as is likely to endanger any person or to cause physical injury or disease or infection to any person coming into contact with it-</p> <p>(a) in the case of an individual, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding \$7,500, or to both; or</p> <p>(b) in the case of a body corporate, to a fine not exceeding \$30,000</p>	\$100 - \$400 (Regulatory and Bylaws Committee Resolution number RB/2012/22 dated 10 October 2012)	Under section 15(2) of the Litter Act 1979 to imprisonment for a term not exceeding 1 month,

