

Meeting: Strategy Committee - 11 October 2017
Name of item: Draft Dog Control Bylaw and Dog Policy 2017
Author: Darren Edwards - Manager Compliance
Suzanne Duncan - Research Analyst
Leslie Trussler - Policy Advisor
Date of report: 25 September 2017
Document number: A1901025

Purpose of the report

The purpose of this report is to recommend that Council conduct further public consultation on the Draft Dog Control Bylaw and Dog Policy 2017 in Attachment 1, having considered further public feedback resulting from the Bay of Islands-Whangaroa Community Board meeting of 14 August 2017.

Executive summary

The main purpose of the Dog Control Bylaw and Dog Policy is to protect people, property, and animals and wildlife from harm by dogs. The Council plays a central role in the control of dogs by administering and enforcing the Dog Control Act 1996, reporting to the Department of Internal Affairs.

There has been extensive community consultation and research into dog control in the Far North District. In response to community feedback on the Statement of Proposal, there are a number of changes to the Bylaw and Policy. The tracked changes are shown in Attachment 2.

Community consultation has taken place under the Special Consultative Procedure for the Proposed Bylaw and Policy. In response to feedback received at the Bay of Islands and Whangaroa Community Board meeting of 14 August 2017, further workshops were held with interested parties in Kerikeri and Russell to discuss the proposal.

It is now intended for the Draft Dog Control Bylaw and Dog Policy 2017 to go out via the dog owner database, to targeted stakeholders, and in media and Facebook for further consultation.

Recommendation

That the Strategy Committee recommend to Council that further public consultation on the Draft Dog Control Bylaw and Dog Policy 2017, dated 25 September 2017, be conducted.

Background

PREVIOUS DECISIONS

Commencing in 2016 there have been a series of reports to the Council, the Regulatory and Environment Committee the Strategy Committee, and all three Community Boards to develop a Statement of Proposal.

In 2017 there was a further series of reports to develop a draft Bylaw and Policy for adoption.

1.	2/06/2016	The Regulatory and Environment Committee made the following recommendation to Council: THAT Council determines that a Dog Control Bylaw is the most appropriate way of addressing the problem; AND THAT the Community Boards be consulted on the proposed Draft Dog Control Bylaw 2016.
2.	15/06/2016	Council determined that a Dog Control Bylaw is the most appropriate way of addressing the problem; AND THAT the Community Boards be consulted on the proposed Draft Dog Control Bylaw 2016.
3.	27/06/2016	The Te Hiku Community Board made the following recommendation to the Regulatory and Environment Committee: THAT the proposed Draft Dog Control Bylaw 2016, and the proposed Draft Dog Policy 2016 be adopted by Council for public consultation.
4.	29/06/2016	The Bay of Islands-Whangaroa Community Board made the following recommendation to the Regulatory and Environment Committee: THAT the proposed Draft Dog Control Bylaw 2016, and the proposed Draft Dog Policy 2016 be adopted by Council for public consultation; AND THAT the Committee consider comments from the Community Board made to staff at this meeting regarding changes to the proposed Draft Dog Control Bylaw 2016 and the proposed Draft Dog Policy 2016.
5.	28/06/16	The Kaikohe-Hokianga Community Board made the following recommendation to the Regulatory and Environment Committee: THAT the proposed Draft Dog Control Bylaw 2016, and the proposed Draft Dog Policy 2016 be adopted by Council for public consultation.
6.	25/08/2016	The Regulatory and Environment Committee recommended THAT the matter of Proposed Draft Dog Control Bylaw 2016 and Draft Dog Policy 2016 be referred to the 08 September 2016 Council meeting.
7.	08/09/2016	Council adopted a Summary Statement of Proposal for the Draft Dog Control Bylaw 2016 and the Draft Dog Policy 2016 and resolved that a full Statement of Proposal be prepared for the incoming Council to approve for public consultation.
8.	26/10/2016	Council adopted the Dog Control Bylaw and Dog Policy Statement of Proposal for public consultation.
9.	07/11/2017 to 16/12/2016	Written submissions.
10.	08//02/2017	Kerikeri Hearings.
11.	10/02/2017	Kaikohe Hearings.
12.	06/03/2017	Kaitaia Hearings.
13.	16/03/2017	Strategy Committee resolved THAT further community consultation be undertaken to consider the issues of responsible dog ownership, wildlife protection, dog welfare and implications for Māori.
14.	03/07/2017	The Bay of Islands-Whangaroa Community Board recommended THAT the Draft Dog Control Bylaw and Policy 2017 be adopted
15.	05/07/2017	The Kaikohe-Hokianga Community Board recommend to Council That the Draft Dog Control Bylaw and Dog Policy 2017 be adopted

16.	06/07/2017	The Te Hiku Community Board recommend to Council THAT the Draft Dog Control Bylaw and Dog Policy 2017 be adopted
17.	14/08/2017	The Bay of Islands-Whangaroa Community Board recommended THAT Council considers the Draft Dog Control Bylaw and Policy 2017 for adoption subject to consideration of the feedback received at the Bay of Islands and Whangaroa Community Board meeting of 14 August 2017

Consultation

- Letters or emails were sent to registered dog owners.
- Council received a total of 335 written submissions from the public.
- 43 submitters requested to speak at hearings in Kerikeri (16), Kaikohe (15) and Kaitaia (12) in February and March 2017.

There were gaps in knowledge prior to the submissions process about specific geographic locations and the unique characteristics of all parts of the District. To fill those gaps:

- Council staff mapped the protected wildlife habitats using [New Zealand ebird](#) and expert advice. This information was shared during the consultation via an interactive web map upon which the public could 'pin' comments.
- Council staff consulted further with Forest and Bird, Māori representatives, the Department of Conservation and the Department of Internal Affairs.

Overall Issues

Themes in the written feedback and discussion on the issue over the past year and as part of the consultation were:

- The public, including dog owners, were not familiar with the existing rules
- The Statement of Proposal was too complicated.
- A lack of enforcement. Some submitters at the Hearings suggested that the rules were not seen to be credible and were widely disregarded as a result.
- An unacceptably high level of dog attacks and widespread community concern about safety and dogs not having been under control.
- Many dog attacks go unreported as does the fear of dog attacks. Animal management staff, Department of Conservation staff and community members identified multiple problems of out of control dogs across the District.
- It is unlikely that any community has full compliance with the Dog Control Act 1996 or Council regulations.
- In areas where dog owners said there were no issues, other submitters identified that, in fact, there were problems.
- Protected wildlife species are threatened across the District and some dog owners are unaware of the threat to protected wildlife caused by their dogs.
- A lack of suitable off leash areas for dogs to exercise safely.
- Problems in in the busy summer period due to holiday-makers arriving into the District with their dogs and conflict between dogs and people.
- The Far North District is unique in New Zealand in having urban populations and wild kiwi in close proximity.

Local Issues

- Discussions with representatives from three different interest groups – conservationists from Bush Bay Action, Waitangi and Karetu Marae representatives, and dog owners resulted in proposals for dog prohibition areas for Waitangi and Te Tii beaches.

- Discussion with Sullivan's beach residents and landowners resulted in a requirement for dogs to be on a leash at all times to enable continued access over private land and to reduce nuisance and ensure dogs are under control.
- Discussions with the Rangiputa Residents & Ratepayers Association resulted in agreement that dogs be allowed off leash at Rangiputa Beach.
- Discussions with the Tauranga Bay Community Association, the Northland Regional Council and local conservation experts on a Tauranga Bay beach exclusion area to agree how best to protect nesting birds.
- The Pou Herenga Tai Twin Coast Cycle Trail Bylaw 2016 consultation process identified how to share a pedestrian and cycle path with dogs, resulting in agreement on a rule of dogs on a leash at all times.

Māori

Further, implications for the relationship of Māori, their culture and traditions with ancestral land, water, site, wāhi tapu, valued flora and fauna, and other taonga arose, including:

- Protection of kai moana (particularly shell fish)
- Taonga (indigenous wildlife) and customary use of fauna
- Wāhi tapu.

These matters are further explained in the [Wai 262 Waitangi Tribunal claim](#). An aspect of the claim was the ownership and control over taonga, plants and animals.

Response to Consultation

There are a number of significant changes to the Bylaw and Policy in response to community feedback on the Statement of Proposal:

- Simplification so that the rules can more easily be understood and known.
- Duplication with the primary instrument for dog control, the Dog Control Act, has been removed.
- The Bylaw and Policy avoid operational guidelines which can be determined under delegated authority.
- Changes to summer beach requirements including prohibited times and both on and off leash times for dogs.
- A change of the summer month period (from December 1st to March 31st) with near universal coverage.
- There are less winter beach restrictions with dogs off leash, except for specified prohibited or year-round on leash areas.
- A small number of dog prohibited areas have been introduced where there are known nesting sites and other protected wildlife that are vulnerable to dogs of all kinds and mahinga kai (food gathering sites).
- An implementation plan has been drafted to ensure successful adoption of the Policy and Bylaw (see Attachment 3).

Further Consultation

In response to feedback received at the Bay of Islands and Whangaroa Community Board meeting of 14 August 2017, further workshops were held with interested parties in Kerikeri and Russell. The feedback from these workshops suggested:

- Further work to identifying more suitable Designated Dog Exercise Areas
- Further consultation to find outcomes agreeable to all allowing for shared usage of beaches during summer and winter months.

The Bay of Islands Watch Dog Group indicated the need for a new consultation process to be undertaken and felt that the public needed to be included in all aspects of the process including:

- Input into discussions on any future consultation.
- The maximum time allowed to consult on the bylaw.
- An ability to view any draft documents both during and post consultation.
- Suitable time to review and provide logical solutions to any draft documents.
- Documents written in a positive 'flavour.'

Dog Control Act 1996 (the Act)

The primary rules to control dogs are set out in this Act, which is currently being reviewed by central government. The Bylaw and Policy do not repeat the primary legislation in order to keep the rules clear and simple. "The [Objects](#) of the Act are:

- (a) to make better provision for the care and control of dogs
 - (i) by requiring the registration of dogs; and
 - (ii) by making special provision in relation to dangerous dogs and menacing dogs; and
 - (iii) by imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person; and
 - (iv) by imposing on owners of dogs obligations designed to ensure that dogs do not injure, endanger, or cause distress to any stock, poultry, domestic animal, or protected wildlife; and
- (b) to make provision in relation to damage caused by dogs.

Dogs must be under control at all times and must not disturb protected wildlife.

The Act provides an extensive range of powers to control dogs, including prosecution, infringement fines, impounding and seizure.

The Act sections 10 and 20 set out the areas to be included in a Dog Policy and Bylaw respectively.

2) Discussion and options

The preferred approach to dog control is to promote responsible dog ownership through education, assistance and directed compliance. Enforcement is not the preferred approach and is to be used when required, not as the first option.

The primary instrument of enforcement is the Dog Control Act 1996. Section 10 of the Act places a duty on Council to have a Dog Policy and section 20 enables the Bylaw

Problem Identification

- A high incidence of dog attacks on people, other dogs, animals and wildlife.
- A high number of unregistered dogs not microchipped.
- Disturbance of and predation on endangered protected wildlife.
- Too many dogs in some urban and protected wildlife areas.
- People from outside the district with holiday homes and visitors not understanding the unique wildlife habitats in popular tourist destinations.
- Unclear and confusing rules.

- Lack of enforcement of rules leading to widespread non-compliance and non-reporting of incidents.

Intervention Logic

- Apply the Dog Control Act 1996 and take action to enforce significant breaches
- Assist and direct people to register their dogs.
- Public education led by conservationists and DOC, including signage. Enforcement of the Dog Control Act 1996 and volunteers at wildlife 'hotspots'.
- Ensure that no new dogs can be registered in restricted areas.
- Enforce the urban 2 dog per household restrictions that have been in place since 2006.
- The Draft Bylaw and Policy are a further simplification of the rules in order to try to meet the first requirement of effective regulation compliance – clear rules that are understood by the public.
- Compliance is not only a matter of resources. Community acceptance is required, and that requires that the rules be seen to be fair and be consistently applied.

Regulatory Framework

Best practice to regulation is to take a staged approach that enables compliance. The model applied here is known as **VADE: Voluntary, Assisted, Directed and Enforced**.

The optimal approach is to promote **Voluntary** compliance as most people will follow the rules if they are able to do so, know what the rules are and consider them to be fair and reasonable. Information is an important component of this approach, for example, notifying dog owners about the new Bylaw and Policy when adopted.

Those who do not comply can be **Assisted** to comply. Education is an important component of this approach and targeted resources may be required to overcome barriers to compliance. For example, the recent dog day programmes in Kaikohe and Kaitaia moved a section of the community towards full compliance.

If there is still non-compliance, then people may be **Directed** to comply, for example, through a verbal instruction or by sending written notices.

Enforcement is the last option for responding to persistent or serious breaches of the rules. This may include an injunction or taking the matter to the District Court.

However, infringement fines are appropriate for less serious offences as a proportionate penalty for matters such as persistent barking, leaving faeces in public places or not having a leash. Infringement fines are set out under the Dog Control Act 1996.

Beach restrictions

As a general rule, dog owners should not take their dogs into areas where shore birds are clustered or gathered together, or where there is protected wildlife. Under the Dog Control Act s57 and s59 a dog maybe seized or destroyed if it disturbs protected wildlife.

There was disagreement about the locations for restricting where dogs may be exercised and about when restrictions might apply. Winter restrictions have been removed in many areas. Dogs are proposed to be required on leash December 1st to March 31st recognising the longer tourist/holiday season here and in the interest of

public safety. Prohibition is appropriate where there is a concentration of protected wildlife or of recreational users.

Urban area restrictions

There was broad agreement for retaining a maximum of 2 dogs (over 3 months old) per household. Around 30% of survey respondents supported a decrease in the number of dogs per household, with only a slight difference between dog owners and non- dog owners.

In most urban areas, restrictions are primarily intended to reduce nuisance (such as barking) and for public safety (reducing the overall number of dogs in any given area). Importantly in the Bay of Islands, there are also protected wildlife considerations due to the proximity of protected wildlife to development. As the human population increases, the increased pressure on protected wildlife may result in their loss.

Option 1 – Further consultation with the community (preferred option)

Having considered the public feedback from the Bay of Islands and Whangaroa Community Board meeting of 14 August 2017, and subsequent workshops with interest groups in Kerikeri and Russell, further consultation is needed and may require further amendments to the Draft Dog Control Bylaw and Dog Policy 2017. This is the preferred option.

Option 2 - Adopt the proposed Dog Policy and Dog Control Bylaw

The Dog Control Act 1996 section 10 requires Council to adopt a policy on dogs. The Dog Control Bylaw gives effect to the Dog Policy. The purpose of the bylaw is to provide for the care and control of dogs; the prevention of injury, distress or nuisance to any person; the prevention of injury or distress to any stock, poultry, domestic animal or protected wildlife; making provision for damage caused by dogs.

Option 3 – Adopt the proposed Dog Policy and Dog Control Bylaw with amendments

Council, as part of decision-making and based on consultation and hearings, can make amendments to the proposed Policy and Bylaw. Amendments need to be clearly identified and a clear rationale provided for each.

Option 4 – Status quo

This would mean that the Dog Control Bylaw and Policy 2006 would remain in place. That would not be consistent with the process of review and consultation which has identified reasons for significant changes to the original Policy and Bylaw, many of which have been supported in the community consultation.

Reason for the recommendation

To ensure successful adoption and implementation of the Dog Policy and Dog Control Bylaw, further consultation is recommended.

3) Financial implications and budgetary provision

There are additional costs associated with further consultation that have been budgeted for.

Manager: Dr Dean Myburgh - General Manager District Services Group

Attachment 1: Draft Dog Control Bylaw and Dog Policy 2017 - Document number A1903478

Attachment 2: Tracked Changes of Dog Control Bylaw and Dog Policy 2017 - Document number A1912864

Attachment 3: Draft Dog Implementation Plan - Document number A1912955

Compliance schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	The matter is of high significance and there is a high level of community interest.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Dog Control Bylaw 2006 and Dog Policy. Dog Control Act 1996 Community Outcomes: <ul style="list-style-type: none">- <i>Safe, healthy, resilient places and people.</i>- <i>Our environment is protected, enhanced and wisely managed.</i>
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This is a District wide matter, but there are specific local issues for the Community Boards to advise upon. The Community Boards were initially consulted a year ago prior to a Statement of Proposal being adopted, and were further consulted on the proposed Policy and Bylaw.
State the possible implications for Māori and how Māori have been provided with an opportunity to	Here are specific cultural considerations, including: <ul style="list-style-type: none">- protection of kai moana (particularly shell

contribute to decision making if this decision is significant and relates to land and/or any body of water.	<p>fish);</p> <ul style="list-style-type: none"> - taonga (indigenous wildlife) and customary use of fauna; - wāhi tapu.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences.	Registered dog owners were notified of the proposal. Community views have been taken into account under the Special Consultative Procedure.
State the financial implications and where budgetary provisions have been made to support this decision.	There are additional costs associated with further consultation that have been budgeted for.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.