

AUCKLAND COUNCIL BYLAW REVIEW – ENFORCEMENT INPUT

Introduction

Context

Auckland Council is reviewing the Public Safety and Nuisance Bylaw 2013 ('the Bylaw'). Work on the review began in January 2017 and is set to be completed by September 2017. Staff will report back to the Regulatory Committee with review findings, options and a recommendation to confirm, amend or revoke the Bylaw.

The review report will include commentary on the enforcement dimension, particularly any challenges relating to the Bylaw's enforcement, and any suggested changes to improve the effectiveness of its enforcement.

Purpose

This report comments on the Bylaw in relation to:

- 1 **Enforcement approach** – the framework/approach the Council applies to enforcing the Bylaw
- 2 **Challenges** – the context and effectiveness of the bylaw from an enforcement perspective, with a particular focus on the more significant enforcement challenges, and the impact of these challenges
- 3 **Suggested changes** – specific changes Licensing and Compliance Services (LCS) suggests to improve the effectiveness of the enforcement approach under the bylaw.

Approach

This report was informed by:

- Review of the Council's Operating Policy and Procedure Manual for the bylaw
- Notes from an LCS workshop on the bylaw review (3 April 2017)
- An indicative assessment (carried out within LCS) of issues covered under the bylaw, applying the proposed new LCS risk prioritisation matrix
- Complaints trend analysis provided by LCS
- A workshop with the Bylaws and Compliance Lead Team
- A half day workshop with Bylaws and Compliance staff.



Overview

LCS considers that there are opportunities to improve the enforceability of the Bylaw, by:

- recognising that regulation is not an effective solution to persistent social issues, and not relying on enforcement under the Bylaw to achieve this purpose
- addressing duplication, overlap and inconsistencies across legislation, including other bylaws
- considering banning or permitting certain activities altogether
- exploring opportunities to augment the enforcement toolkit to enable more graduated, practical enforcement options
- clarifying the definitions in the Bylaw of some key terms.

Enforcement approach

The Council uses a range of education and enforcement tools to achieve compliance with the Bylaw. These include:

- advice, education, proactive fieldwork and inspections
- informal warnings
- formal written notices
- statutory notices and/or seizures
- prosecution.

Council officers apply their professional judgement on when and how to apply these tools, depending on the situation, based on the following set of enforcement principles.

Table 1: Enforcement principles

Principle	Statement
Proportionality	Our actions will reflect the level of risk to the public and the degree of action taken is proportional to that risk.
Consistency	Our advice will be consistent, reliable and robust and we will respect the advice provided by others.
Transparency	Our regulations will be developed and enforced transparently and understood by those we are regulating. Information and any lessons learned will be shared and promoted.
Targeting	Our resources are targeted primarily on those whose activities give rise to nuisance or impact on public safety.
Voluntary compliance	We regard prevention as better than cure and will apply a range of flexible and targeted measures to promote self-regulation.
Accountability	Our enforcement decisions and the conduct/behaviour of our Council officers (and other authorised officers) will be explained and open to public analysis.
Adequacy of evidence	We will not commence or continue a prosecution unless it is satisfied that there is sufficient admissible and reliable evidence that the alleged bylaw breach has been committed.



Principle	Statement
Impartiality of compliance and enforcement response	We will not undertake any action for improper reasons, such as: discrimination against a person based on their ethnicity, nationality, political associations, religion, gender or beliefs, or any personal feelings towards the alleged offender.

Different enforcement tools and levels of response are used depending on the level of risk, seriousness of harm, the attitude towards compliance, and the practicalities of enforcement in relation to different issues covered under the Bylaw.

Subject to these considerations, Council officers often use a 'graduated response' when managing non-compliance. This involves applying the least coercive tool in the first instance, working through the range of options to prosecution for those serious or persistent offenders or where the effect of the offending is severe.

The overriding consideration in taking enforcement action is the protection of public health and safety. To this end, the Council applies a risk-based prioritisation approach. This means that breaches of the Bylaw which pose a more significant risk will be prioritised in terms of response type and timeframes.

Enforcement responses are triggered in proactive and reactive ways. Proactive activities such as patrols, information and education are aimed at preventing breaches of the Bylaw, or identifying breaches without complaints being lodged. The primary reactive trigger is through the Council's complaints channels, where a member of the public reports an alleged breach.

Context and challenges

The primary challenges relating to enforcing the Bylaw are described below.

Cross-cutting enforcement challenges

There are a number of enforcement challenges that cut across the range of areas covered in the Bylaw. It is useful to address these first, as the subsequent discussion about specific parts of the Bylaw provides illustration of these challenges.

1. Problems with applying regulatory solutions to social issues

Council officers find enforcement solutions ineffective against offences that are driven by underlying social problems, such as begging, substance abuse and homelessness. These problems typically produce repeat offending.

Solutions need to operate at the systemic level, addressing root causes (such as alcohol, drug addiction and mental health issues) as well as the presenting behaviours. This means a multi-dimensional and integrated response across a range of agencies.

2. Gaps in the spectrum of enforcement tools

The Council has found that there is a gap in its enforcement toolkit between warnings and prosecutions, to the point where a properly 'graduated' approach to enforcement becomes difficult.

Statutory notices or seizures can bridge this gap in situations where peoples' property or objects are involved (e.g. in obstruction situations such as leaving building materials on a footpath). However,



even in this situation the practical steps involved for the Council (e.g. hiring a crane) can create barriers to enforcement, even if costs can be recovered later from the offender.

In these situations, Police support makes a real difference, as the Police can become involved in a 'campaign' to move people creating a nuisance on from public places.

3. Identifying individuals in a public space

The Council's ability to pursue enforcement action beyond issuing an informal warning often depends on its officers' ability to identify the offending individuals.

Where the offence is by a property owner or a person associated with an identifiable property or vehicle, this task is easier. However, in many instances there are significant barriers to identifying offenders. This occurs in situations where:

- people in public spaces refuse to identify themselves.
- people give false details
- substance abuse is involved
- the offenders run away (e.g. window washing)
- the physical environment makes identification very difficult (e.g. numerous people setting off fireworks in parks in the dark).

Having a police presence assists in getting people to give their names.

4. Enforcement-related health and safety for enforcement officers

Enforcing some aspects of the Bylaw sometimes involves a risk of putting Council officers in harm's way. For example, there have been instances where window washers have thrown objects and washing fluid at enforcement officers, even with Police in attendance.

In another example, a staff member attempting to deal with a homeless person was chased with a knife.

This challenge is becoming more prevalent due to an increasing expectation by public and politicians that Council should be intervening in public order issues (e.g. PSN 6 (1) (e) responding to the use of mind altering substances in a public place). The Bylaws unit is increasingly viewed as the compliance agency of last resort but is often ill-equipped to do so effectively.

The Council is committed to avoiding and managing these safety risks to its staff. This means taking alternative measures to attempt to enforce the Bylaw, such as using dashboard cameras to try to record and identify window washers, and ensuring staff work in pairs when in a potentially more threatening situation. While some level of risk is inevitable, the measures Council needs to take to manage this risk compromises its enforcement abilities to some degree. For example, in relation to begging and the homeless, engagement is the only effective approach to achieve a resolution. Difficulties engaging due to safety concerns renders enforcement very difficult.



Challenges with specific parts of the Bylaw

1. Begging

The Bylaw has seen a behaviour change from aggressive to 'passive' begging. The number of beggars in the Auckland CBD area has increased, but now are more likely to be passively begging.

Practical issues with enforcement of begging under the Bylaw include the following.

- Council officers can't touch people who are begging. Without cooperation, council employees cannot physically move them on. While some individuals can be 'moved on' by engaging with them, either by Council officers or in collaboration with the Police, the problems quickly re-emerge elsewhere.
- More severe enforcement such as prosecution is relatively ineffective and impractical; it does not address the underlying social or health issues, and is costly and time-consuming. The Council has proceeded with prosecutions in 14 cases, and has provided video footage of intimidating behaviour and stand-over tactics at ATMs. However in the majority of these cases defendants have been convicted and discharged without penalty due to the lack of any means to pay a fine.
- Issues relating to "mind-altering substances" are difficult to enforce largely due to the need for any prosecution to have evidence of the substance, which requires a sample. In practice this can be difficult to obtain. LCS considers that this kind of enforcement should primarily be by the Police, rather than being tagged to 'nuisance' and enforced through regulatory means.
- The evidentiary burden can be difficult to satisfy. The wording of the Bylaw links begging to 'nuisance'. Intimidation and nuisance are subject to interpretation, and require public statements as evidence. In practice it has been hard to identify these people and persuade them to become involved in a prosecution. The default position has been to prosecute for 'obstruction' not 'aggressive begging'.
- The individuals concerned can be angry and obstructive, creating safety risks for Council officers.



2. Car window washing

Car window washers are common at certain intersections around Auckland, and particularly prevalent in Mt Wellington, Sylvia Park, Greenlane, Newmarket and Mt Albert.

There has been a recent increase in under-age window washers, which is posing a concern for the neighbourhood policing teams.

The key enforcement issue is that enforcement tools available to the Council are not effective to deter or otherwise reduce this type of offending.

Where offences are largely behavioural, as in this case, the next formal point of escalation from issuing a warning is prosecution. Warnings are readily and generally ignored by wilful offenders as they do not carry enough consequence. At the other end of the spectrum, prosecutions are time-consuming, costly, and place a significant burden on the Council to prove the offending. The threat of prosecution does not appear to have had any discernible impact on the number of car window washers.

In addition to the lack of deterrence, the names of offenders have proved difficult to obtain for prosecution.

3. Fireworks

The Council is swamped with complaints during the Guy Fawkes period. It is also common for firework complaints to be received during Chinese New Year events. The impacts of fireworks include noise, damage to property or people, and litter left behind.

Fireworks bans in parks can be very difficult to enforce in practice.

- Often there are a large number of people setting off fireworks with their families. The large numbers of complaints received is beyond the capacity of the Bylaws staff to effectively enforce.
- Fireworks are invariably set off after dark in unlit locations making identification of the individuals involved difficult.
- Most people using fireworks believe the Bylaw is unenforceable and they will do it anyway. While people can be asked to stop, the approach has limited effectiveness - once the officers move to another location other people will arrive or the activity will recommence.

The current approach involves standing patrols at a few key beaches/parks and a 2-3 hour response time for other sites, with a focus solely on trying to achieve compliance through advice and education.



4. Dealing with vehicles in public spaces – beaches and parks

The Council encounters Bylaw breaches in relation to vehicles driving on beaches, especially on west coast beaches such as Muriwai and Karioitahi beach, and in parks. Sometimes a joint enforcement approach is taken alongside the Police and/or other agencies, depending on the location.

People who are infringing the Bylaw in moving vehicles pose particular enforcement challenges for the Council. Licence plates are sometimes deliberately obscured. Moreover, the Council has no ability to chase or stop vehicles, and needs to work in conjunction with other enforcement agencies in these situations. The sheer volume of vehicles driving on beaches such as Muriwai and Karioitahi has necessitated the introduction of an online permitting process.

Parked vehicles are easier to deal with but the Council's options are limited to seizure or prosecution, both of which are relatively severe enforcement options.

The timing of this type of offence also poses challenges for the Council. This type of offence typically takes place outside standard work hours, on weekends or holidays. This makes it difficult for the Council to deploy resources onto issues, as it is resourced to provide full weekday enforcement, with only emergency weekend cover.

5. Objects left in a public place – “obstruction”

The Council needs to deal with situations where objects are left or stored on public land. This includes situations where skips are placed on public land or road reserve.

The Bylaw deals with objects on public land where they are “damaging” or “obstructing”. Objects that do not fall within either category can be difficult to deal with.

There is inconsistency between the Trading and Events Bylaw and PSN Bylaw in terms of storing goods. The PSN bylaw allows storing of goods so long as they do not obstruct. In contrast, Trading and Events bylaw limits this due to the purpose of using the footpath.

A key challenge is that ‘obstruction’ is not currently defined in the Bylaw, and becomes a subjective term open to interpretation in cases where the Council has to prove obstruction.



6. Duplication or overlap with other provisions or enforcement mechanisms

There is duplication or overlaps between provisions in the Bylaw, and provisions covered in other legislation.

- *Duplication with criminal offences* - 9(5)(k) 'possessing a weapon' and 7(1)(a) 'damage Council property' are both criminal offences, which are effectively covered under other legislation.
- *Stormwater* - Stormwater 7(1)(b) duplicates provisions for stormwater control in the AC Stormwater Bylaw 2015.
- *Signs* –There is an overlap with s6 (2) (a) of the PSN and the provisions of the AC Signs Bylaw 2015.
- *Noise control in relation to the use of PA systems / instruments creating nuisance.* There is an overlap with the RMA in relation to noise from public space effecting private space. This can come from cars, stereos, buskers
- *Fires* - for the lighting of fires, infringements are issued under pollution control provisions (rather than the PSN Bylaw), which are enforced within 30 minutes by the security contractor.

7. Mind altering substances and enforcement

The Bylaw creates an expectation that Bylaws staff are able to deal with people under the influence of mind altering substances in public places.

These issues are not necessarily Police issues (e.g. glue sniffing) but the Bylaws staff have neither the authority nor are equipped to deal with these issues.



Suggested changes

Issue	Suggested change
Specific issues under the Bylaw	
Begging	<p>LCS wouldn't support either a begging ban, or no controls, as these approaches would make the job more difficult.</p> <p>Suggested approach:</p> <ul style="list-style-type: none"> Retain the clause in the Bylaw. There are a large number of people begging now and the Bylaw enables staff to engage with them and encourage them to beg in a passive way. It also enables staff to ask them to move to public seating rather than lying across the pavement. Tightening the definition of 'obstruction' would help better manage the issue, (see suggestions on definition of obstruction below)
Car window washing	<p>LCS recommends creating a strict liability offence, with a full ban, and with the power to issue infringement notices.</p> <p>Ideally the Police would be at the forefront of enforcement due to the health and safety issues and the ability to exercise a wider range of enforcement powers to deal with the behaviours involved.</p> <p>Alternative methods of enforcement and prevention include:</p> <ul style="list-style-type: none"> Educating the public to avoid creating demand by giving window washers money. If the Government makes it an offence under the Land Transport Act to wash car windows at intersections, (by passing the Land Transport (vehicle user safety) Amendment Bill), it is recommended that window washing be removed from the bylaw.
Fireworks	<ul style="list-style-type: none"> Auckland Council could advocate for the Government to limit the selling of fireworks for commercial events only Permit fireworks in public places, other than in some specified places, to control their use more effectively. This would be coupled with sending out enforcement staff to monitor those specified places where fireworks were not permitted. Remove 6 (3) (b) – Overlaps with the summary Offences Act.
Obstructions	<p>Define 'obstruction' more specifically in the context of the Bylaw's provisions.</p> <p>Extend the Bylaw to enable the Council to take action in relation to any object stored or left in a public place, not only if the objects are obstructing.</p>
Vehicles on beaches	<p>Allow the driving of vehicles on some beaches (where there is a significant demand to do so), e.g. Muriwai and Karioitahi beaches.</p>
Duplication with other legislation or enforcement mechanisms	<p>Address duplication issues.</p> <p>Signage</p> <p>In relation to signage controls in the PSN Bylaw, bring these controls (posters/signs) explicitly into the Signs Bylaw 2015. Fly-posting also needs to be more specific – i.e. demonstrators attaching signs to poles</p> <p>PA systems and instruments</p> <p>The Bylaw needs to specifically identify noise nuisance in private space that is coming from public space, which currently overlaps with RMA noise provisions. (See proposed "Definition of Nuisance" - exclude private nuisance explicitly (below)).</p> <p>Pollution control</p> <p>LCS believes it is unnecessary to specify the issue in the PSN Bylaw as in practice it is dealt with under pollution provisions of the Unitary Plan.</p> <p>Vegetation</p> <p>Remove the following wording in PSN Clause 8 (1) (c) " or an obstruction to traffic".</p> <p>Vegetation causing an obstruction to traffic is controlled by the LGA 1974 clause 355.</p>



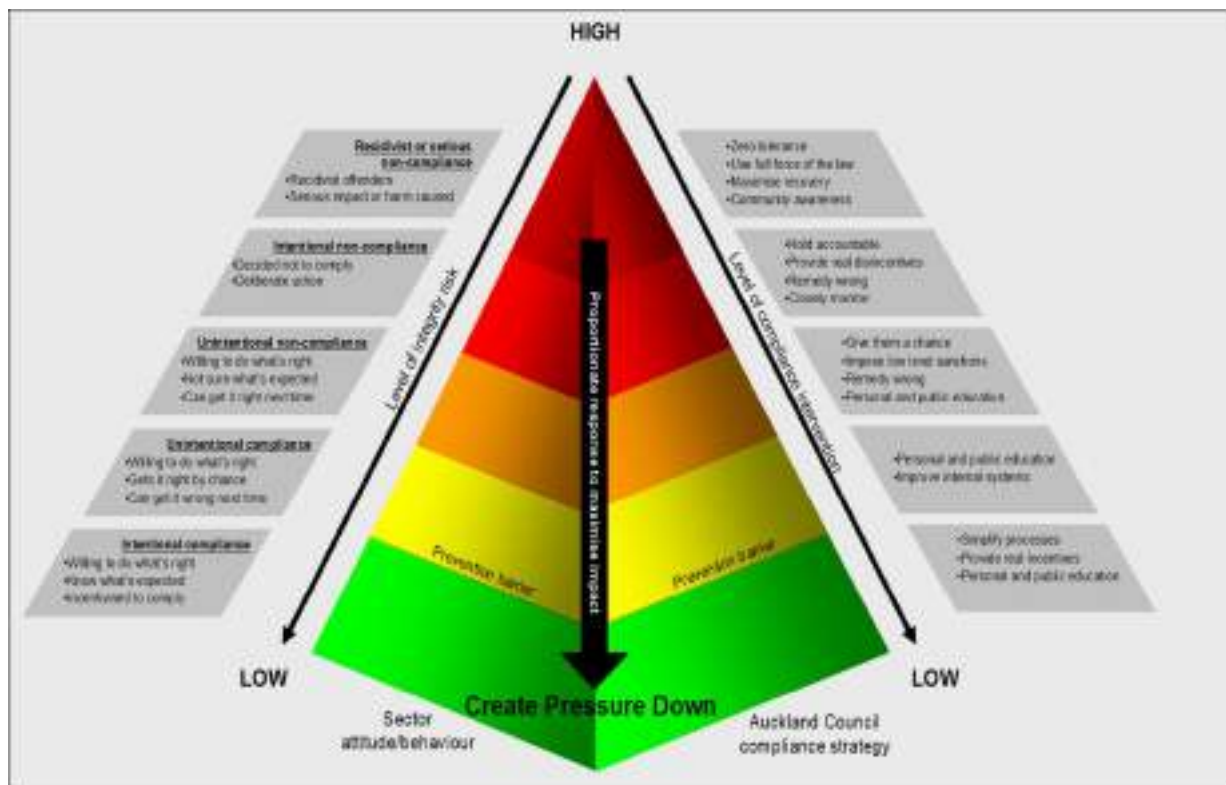
Issue	Suggested change
Cross-cutting enforcement issues	
Gaps in enforcement tools	<p>The ability to issue enforceable infringement notices under the Bylaw would bridge this gap.</p> <p>Consideration needs to be made to the drafting of specific (strict liability) offences under the Bylaw to facilitate the introduction of an infringement notice regime.</p>
Definitions in the Bylaw	
Definition of 'nuisance'	<p>Issue</p> <p>Current definition is based on a s29 Health Act 1956 definition involving situations that are "injurious to health", which does not always reflect the needs of the Bylaw.</p> <p>Suggested changes</p> <ul style="list-style-type: none"> • Clarify the definition of nuisance in the context of the PSN Bylaw. This has been done in the property maintenance bylaw (and there is recent case law), which ties the definition of nuisance back to the activities in question. • Exclude private nuisance explicitly.
Definition of 'public place'	<p>Issue</p> <p>Public Safety and Nuisance Bylaw 2013 and Trading and Events in Public Places Bylaw 2015 have different definitions of the term 'public place'. The PSN Bylaw includes 'private' places which Licensing and Compliance Services does not have jurisdiction over.</p> <p>Suggested change</p> <p>Adopt the Trading and Events in Public Places Bylaw 2015 definition of a public place in the PSN Bylaw, as it is restricted to Council or Council controlled places.</p>
Fences adjacent to a public space	<p>Issue</p> <p>The current Bylaw states "a person must not use a public place to...(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".</p> <p>Fences on private property, leaning or falling over public property, are not specifically referred to.</p> <p>Suggested change</p> <p>Change provisions relating to private fences on or adjacent to public space that may cause an injury or nuisance to any person.</p>



ADDITIONAL INFORMATION PROVIDED BY AUCKLAND COUNCIL LICENSING AND COMPLIANCE SERVICES

Enforcement approach

1. The 'graduated response' referred to on page 3 of the report by Martin Jenkins Limited is shown below.



2. Proactive 'enforcement responses' referred to on page 3 of the report by Martin Jenkins Limited are also informed by Complaints Trend Analysis which can be viewed in the findings under the heading "How Aucklanders Perceive Public Safety And Nuisance".

Duplication or overlap with other provisions or enforcement mechanisms

3. The statement "*Signs* –There is an overlap with s6 (2) (a) of the PSN and the provisions of the AC Signs Bylaw 2015" on page 8 of the report by Martin Jenkins Limited is a reference to clause 7(2) of the Auckland Council Signs Bylaw 2015.
4. The statement "*Noise control in relation to the use of PA systems / instruments creating nuisance*. There is an overlap with the RMA in relation to noise from public space effecting private space. This can come from cars, stereos, buskers" on page 8 of the report by Martin Jenkins Limited is a reference to clause 6(1)(b) of the Bylaw.
5. The statement "*Fires* - for the lighting of fires, infringements are issued under pollution control provisions (rather than the PSN Bylaw), which are enforced within 30 minutes by the security contractor" on page 8 of the report by Martin Jenkins Limited is a reference to clause 6(2)(b) of the Bylaw. Licensing and Compliance Services also note that the Fire and Emergency New Zealand Act 2017 may take this responsibility away from council.
6. Licensing and Compliance Services have identified a further duplication in relation to **mind altering substances**. Clause 6 (1) (e) deals with the consumption, inhaling,

injecting, distributing or offering for sale any mind altering substance. There are no issues with the definition. However, there is duplication with the Psychoactive Substance Act 2013. Almost all mind altering substances, apart from glue or butane, would fall under the classification of a Psychoactive Substance. This Act gives enforcement powers to the Police. Section 70(1) of that act covers distribution of an unapproved product and section 71(1) covers possession. Infringement powers also exist for Police for these offences.

Mind altering substances and enforcement

7. Licensing and Compliance Services has identified additional points to the statements on page 8 of the report by Martin Jenkins Limited.
8. The report by Martin Jenkins Limited states “The Bylaw creates an expectation that Bylaws staff are able to deal with people under the influence of mind altering substances in public places. These issues are not necessarily Police issues (e.g. glue sniffing) but the Bylaws staff have neither the authority nor are equipped to deal with these issues”.
9. Licensing and Compliance Services also note that:
 - this issue is difficult to address due to the fact that people are under the influence of mind altering substances, they may be aggressive and they may have associated mental health issues etc...
 - people under the influence of mind altering substances will often refuse to co-operate with staff in providing their name, or any other way of identifying them
 - if the person is not causing a disturbance, Police may choose not to interfere or provide assistance
 - this issue is closely linked to the general statements around attempting to use a bylaw to resolve deeper rooted social issues.









PUBLIC SAFETY AND NUISANCE BYLAW REVIEW PROJECT

Prepared for Auckland Council
by Big Picture May 2017



Objectives and Approach

OUR 5 KEY OBJECTIVES:

-  1. To gain **feedback** from the Auckland public particularly from those who **we don't normally hear from**
-  2. To gain a clear understanding of the **underlying perceptions** that constitute a public **nuisance** in the minds of Aucklanders
-  3. To explore peoples' different **levels of tolerance** for public nuisances
-  4. To identify the triggers that move people from tolerance of certain behaviours, to perceiving nuisance, to fearing for their own or others safety
-  5. To understand the public's perception of **Auckland Council's role** in regulating issues related to public safety and nuisance
-  6. To determine the **effectiveness** of the current '**PS&N Bylaw**' and exploring **new ideas** and areas for improvement in regulating nuisance behaviours

OUR APPROACH:



20 x 60 minute in-depth interviews

- with people from different regions of Auckland
- who have never voiced their concerns / complained to Auckland Council

Sample breakdown:

Māori & Pacific Islander N=5	New Zealand Migrants N=5	NZ Europeans N=10
N=3 Māori & Pacific Islander youth • 2 male (Māori), 1 female (PI)	N=2 established migrants in NZ • n=1 Indian (young), n=1 Chinese (older) • 1 male, 1 female	N=10 NZ European • n=4 young; n=3 middle age; n=3 older • 5 male, 5 female
N=2 Māori, older • 1 male, 1 female	N=3 new migrants to NZ • n=1 Indian (older), n=2 Chinese (young) • 2 male, 1 female	

AGE KEY: Youth = 15-19 years; Middle age = 30-49 years; Older = 50+ years

HOW DO WE DEFINE AND PERCEIVE PUBLIC BEHAVIOURS?



“People can do what they want in the privacy of their own home but once it impacts me or my children it’s an issue”

We have different standards when it comes to how people should behave in public versus private

- Public and private worlds are two clearly defined spaces in Aucklanders' minds
 - Public sphere – tends to be 'outside' both physically in terms of the spaces as well as outside of the community the individual identifies with
 - Private sphere – tends to be 'inside' for example, inside of the home, community, family unit or those individuals who you identify with
- Both social worlds come with different social norms as to what you should or shouldn't do – and what is 'appropriate' in each
- Not only that but we tend to relate what goes on in our social worlds to ourselves – "if I'm doing it, it's okay" vs. "if someone else is doing it and it's impacting me and what's important to me, it is not okay"



"seeing people do things like that makes me question their upbringing and where their morals lie"

How we think about behaviours changes in our minds depending on where they take place and what socio-cultural lens we apply. We are all ego-centric, which means any behaviour that impacts us directly and is less understood to us, is more of a nuisance

‘Who we are’ and ‘where we are from’ influences how we perceive and interpret different behaviours



- Our environment shapes our experiences and often determines what we deem to be acceptable – which informs how tolerable behaviours are to us
- Our identity and social standing in society also influences how we behave – whether we have a greater sense of power and authority in social situations
- The degree to which we feel like we belong to a city or place shapes how we feel about the behaviours that take place there and our tolerance for them
- There is a greater sense of entitlement that comes with those who feel more social power within our society
 - An older, male, NZ European Aucklander's perspective is very different to a younger, Chinese female who has recently moved to Auckland

"It just shouldn't really be a behaviour that young people are engaging in. It is really selfish because it impacts everyone"
52 year old Male NZ European from Auckland

"I see it happening but would never say anything. I don't really see it as my place. I mean they might be from Auckland, it might be allowed"
30 year old, Female NZ European from Westport originally

"It's fine by me because it doesn't affect me and I don't want to stand out"
21 year old, Female, Chinese migrant

Our diverse Auckland population is coming at this from different starting standpoints meaning that no two experiences are exactly the same.

Our socio-cultural lens of 'where we are from' and 'who we are' influences our perceptions of different behaviours... here are three buckets they fall into



IDENTITY & SOCIAL STANDING

WHO YOU ARE & YOUR STATUS IN SOCIETY: Gender, ethnicity, age, level of education, financial status, which determine your perceived social power

WHERE YOU ARE FROM: Exposure to and levels of acceptance for different nuisances is influenced by how they are practiced in your home town... whether it is urban or rural or what country you may originally be from

YOUR UPBRINGING & SUPPORT NETWORK : Whether you are with likeminded individuals who reinforce your behaviour and or behaviours that may or may not be tolerated

HOW YOU COMMUNICATE: Whether you are more direct or indirect in how you explain your point of view – and in your native language

"In India, people who beg are genuinely poor, here in NZ they get benefits from the government"

VALUES & CORE BELIEFS

SENSE OF BELONGING: Having a connection to a community & a sense of belonging to a place or being more self-orientated in how you see the world. Feeling connected to a community coincides with an entitlement to speak up and or protect that place when something is happening that is deemed unacceptable

SENSE OF JUSTICE & FAIRNESS & MORALITY: how you interpret actions and your rights in different circumstances and whether you attribute behaviours to being right or wrong. Some spoke about this in the context of 'respect' / 'consideration' for others

LEVELS OF PERCEIVED INTENT IN THE ACTIONS TAKEN: Whether there is any malice or ulterior motive in the actions taken

SENSE OF RESPONSIBILITY & OWNERSHIP OVER ACTIONS: Whether they have a sense of obligation to behave in a certain way in front of others

"There is no excuse for leaving fish on the beach like that when you know damn well that it will impact on others"

EXPERIENCES & EXPECTATIONS

EXPOSURE & PERSONAL ENCOUNTER: Whether or not you, or someone you know has had direct or indirect experiences of the behaviour you are observing

AWARENESS & KNOWLEDGE: Having a prior understanding and familiarity with what is happening in the public space

ABILITY TO REACT: Whether you anticipate certain behaviours taking place or not in a given space and the level of impact this has for you

HOW YOU FEEL YOU ARE MEANT TO BEHAVE: Having standards of conformity in their mind that they may or may not need to adhere to

LEVEL OF PERCEIVED INTENT: Whether or not you feel that the action taking place is being done so with a deliberate lack of consideration for others or whether you feel that the agent is unaware of the impact they have on others

"I've read stories of window washers getting violent so I make sure to lock my car doors and keep my head down"

How people behave, perceive and react to different behaviours is not linear or clear cut, it's more messy because socio-cultural factors are changeable across different people. We need to bear in mind that these factors are not fixed and can constantly change for Aucklanders

Demographic factors also integrate with peoples' socio-cultural lenses to influence the perception of behaviours

"as a lone female I don't feel comfortable with men approaching my car like that – the first time I experienced it I was really scared"

Female, 69, New migrant

"we were brought up to have respect for one another, when I see kids running around the road like that I question the parenting"

Male, 23, Pacific Islander

"being an old man has it's advantages - people are less likely to target me"

Male, 69, New Zealand

"people say we are taking their jobs yet I see people sitting on the street not wanting to work!"

Male, 22, Indian established migrant

"I used to set net when I was younger but now I know about the environmental damage it can cause"

Male, 38, New Zealand



"I don't think they even know how to better their situation, maybe they never had that education or have lost it along the way"

Female, 49, New Zealand

"In China we call it 'maintaining face' even if things are not good you should always look like it is OK and show self pride"

Female, 45, Chinese established migrant

"In India begging is an institution, lot's of corruption that doesn't happen in New Zealand so if they're begging it must be legit"

Male, 30, Indian, New migrant

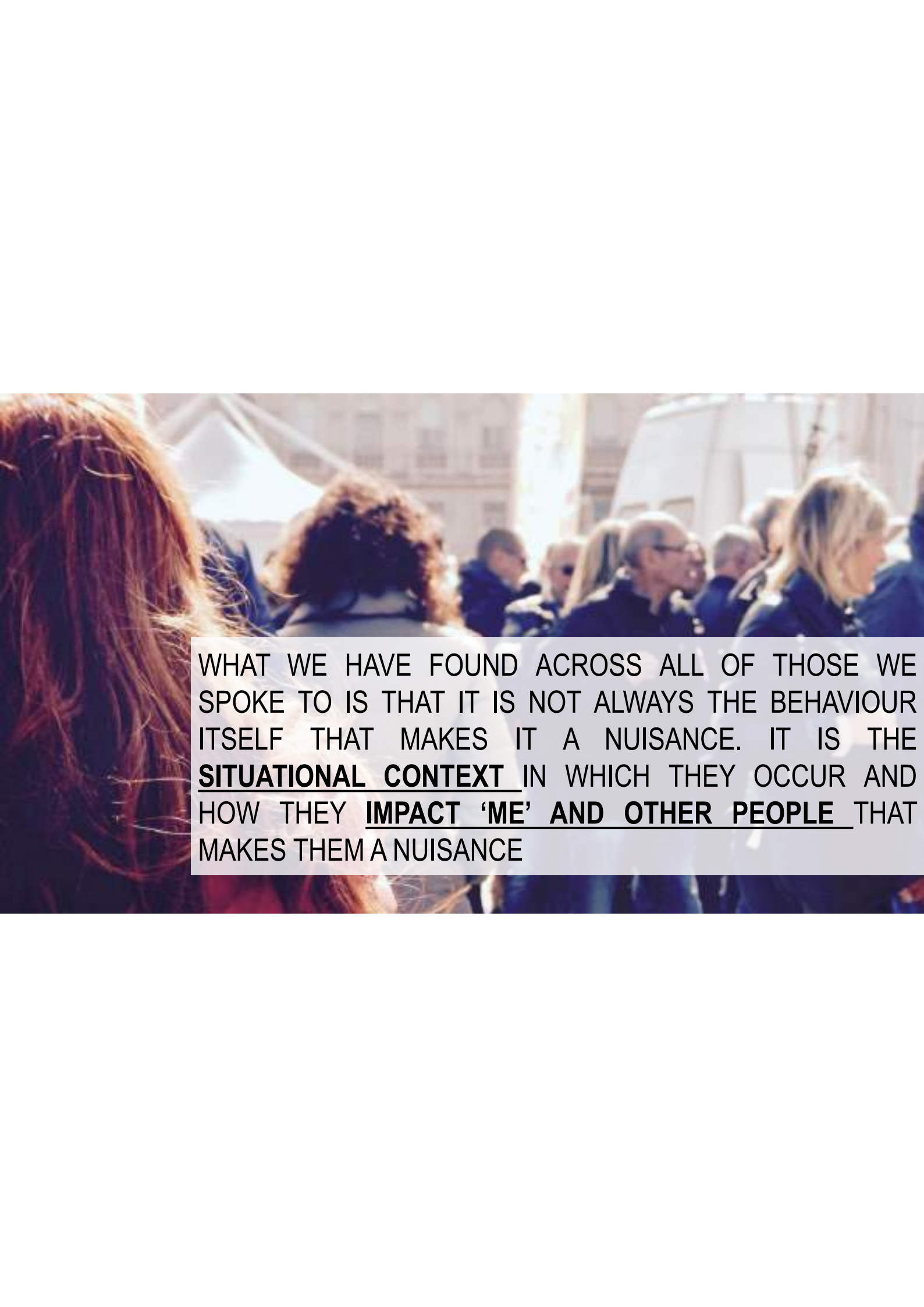
"I think begging in Auckland has gotten worse, I don't like to see it but it doesn't impact me personally"

Male, 36, Maori

"it's just kids being kids really, can you really stop them?"

Female, 49, New Zealand

There is no hard and fast rule when it comes to how we perceive the behaviour of others - both demographic factors and socio-cultural lenses are important as they lay the foundation for why the same activity may be viewed differently by two different people



WHAT WE HAVE FOUND ACROSS ALL OF THOSE WE SPOKE TO IS THAT IT IS NOT ALWAYS THE BEHAVIOUR ITSELF THAT MAKES IT A NUISANCE. IT IS THE **SITUATIONAL CONTEXT** IN WHICH THEY OCCUR AND HOW THEY **IMPACT 'ME' AND OTHER PEOPLE** THAT MAKES THEM A NUISANCE

We heard a range of different behaviours coming up spontaneously as nuisance behaviours in public spaces...



Noise at night

Camping in parks during the day in the bushes

Taking over part of the park / beach so others can't enjoy it

Young people making noise in large groups

Letting off fireworks in the middle of the night

Littering and dropping rubbish so the space is untidy

Unclean homeless people

Beggars congregating in one place

Graffiti on public buildings

Making noise that they know is keeping people awake – clear lack of consideration

Making a mess that they know somebody else will have to clean up

Scooters parked on the pavement

Groups loitering down the road I go down to enter my flat

Group of 5-6 guys approaching your car to window wash

If the person is talented and the art is for everyone to enjoy – not just tagging

Kids messing about on the roads – skateboarding and go karting

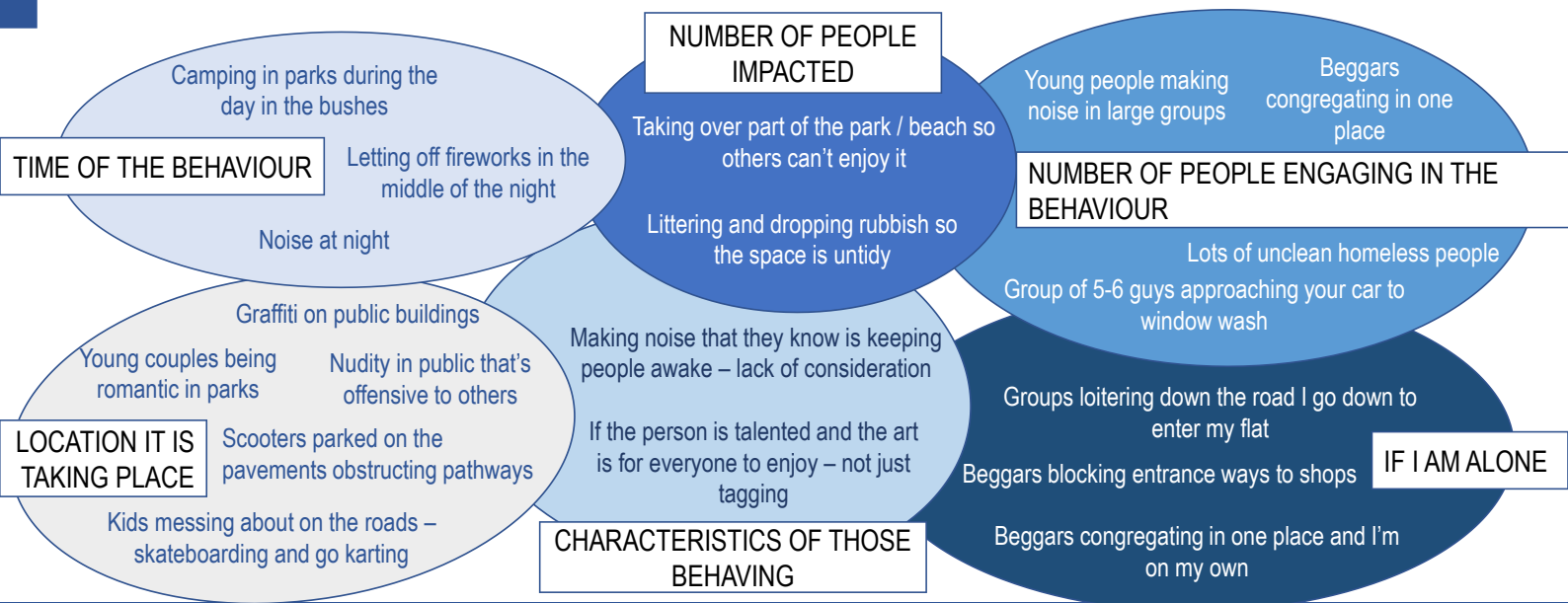
Beggars blocking entrance ways to shops

Nudity in public that's offensive to others

Young couples being romantic in parks

Most top of mind behaviours are those that are relevant to Aucklanders now – they, more often than not, are being experienced or have been recently. Seeing the behaviour or act taking place is what really frustrates Aucklanders...

We can make sense of these different behaviours by grouping them into situational contexts that contribute to their 'nuisance-ness'...



This gives us six situational contexts that help us understand the extent to which an activity is perceived as a nuisance or not

These situational contexts consistently came up as factors Aucklanders take into account when thinking about 'nuisance behaviours' in public spaces

TIME	LOCATION	ALONE OR WITH SOMEONE	NUMBER OF PEOPLE AFFECTED	CHARACTERISTICS OF THOSE BEHAVING	NUMBER OF THOSE BEHAVING
<p>WHAT TIME OF DAY IS IT? Morning, noon or night?</p> <p>WHEN DURING THE WEEK / YEAR? More relevant at weekends or during seasons?</p> <p>IS IT LIGHT OR DARK? Can see what's going on, is it hidden?</p> <p>HOW OFTEN IS IT HAPPENING? Frequency of the behaviour happening</p> <p>DOES IT CONTINUE ON A RECURRENT BASIS? Despite any actions taken, how persistent is it?</p>	<p>ARE THEY CLOSE TO NEAR WHERE I LIVE I.E. IN MY NEIGHBOURHOOD? Are they behaving like that near my home where I feel safe or in the area I spend most time?</p> <p>HOW CLOSE ARE THEY TO ME IN THE PUBLIC SPACE? Too close to me, encroaching on what I consider my personal space?</p> <p>ARE THEY MISUSING SPACES WHERE OTHER PEOPLE ARE LOCATED? Is there behaving in keeping with what you'd expect to see in that space?</p>	<p>WHO IS WITH ME? Am I alone or accompanied by friends/ family / others</p> <p>HOW DO THEY FEEL ABOUT WHAT IS GOING ON? If I am with someone, how do they feel about the behaviour? Are they annoyed?</p> <p>WHO IS AROUND TO HELP? Am I able to call upon someone if I need a hand or if this behaviour escalates?</p> <p>HOW OFTEN IS IT HAPPENING? Frequency of the behaviour happening</p>	<p>HOW MANY PEOPLE ARE IMPACTED BECAUSE OF THE INDIVIDUAL'S BEHAVIOUR? Is one individual ruining the experience for everyone else?</p> <p>WHO IS AFFECTED MOST? How impacted are vulnerable groups like elderly and children?</p> <p>WHO BELONGS MORE TO AUCKLAND AS A CITY? Did they grow up here or were they here first so have priority? How entitled do I feel over the spaces where this behaviour is taking place?</p>	<p>WHAT IS THE INTENT BEHIND THEIR BEHAVIOR? Do they realise the impact they have on other people? Are they showing consideration for others?</p> <p>WHAT IS THEIR PHYSICAL APPEARANCE? Unclean, smelly, threatening? Are they mentally well / intoxicated?</p> <p>WHAT IS THEIR BODY LANGUAGE? How approachable are they? How aggressive do they appear?</p> <p>WHAT ARE THEY SAYING? Are they engaging me directly and singling me out?</p>	<p>HOW MANY PEOPLE ENGAGING IN THE BEHAVIOUR? Are there more of them than us? Is there a group? Am I out-numbered?</p>

These situational contexts are of more or less relevance depending on who Aucklanders are – they are variable. However our emotions change the order of importance of each and to what extent they drive Aucklanders' perceptions of public behaviours

SO WE KNOW SOCIO-CULTURAL LENS AND
SITUATIONAL CONTEXTS INFORM OUR PERCEPTION OF
BEHAVIOURS...BUT HOW DO AUCKLANDERS RESPOND?



There are several different emotional responses to behaviours in public places...

Accepting and ambivalent as they attribute behaviours to 'just city living'



"It is just part and parcel of living in a big city. There are lots of people & you just accept that you may not get along with everyone all the time but you make do"

Annoyed that someone's behaviour can disregard others



"It's annoying more than anything else. It can get in the way of you going about your normal business. I don't let it get to me though"

Anger and frustration directed at the person or situation they are in



"It makes me angry that they feel they have the right to behave like that in public. Do they not think of other people even children? It really frustrates me"

Fear and vulnerability as you feel unsafe as a result of the behaviour



"I begin to think about the position I am in and the fact that I am on my own. It could escalate and they could lash out"

When we look at how Aucklanders respond we are specifically referring to their emotional response – how they make sense of the behaviour in their own minds, rather than any physical actions they may or may not take

Some peoples' responses can be more empathetic and sympathetic if they believe the person doing the act is vulnerable or less fortunate than they are

Feelings of sympathy and empathy for the person in the situation

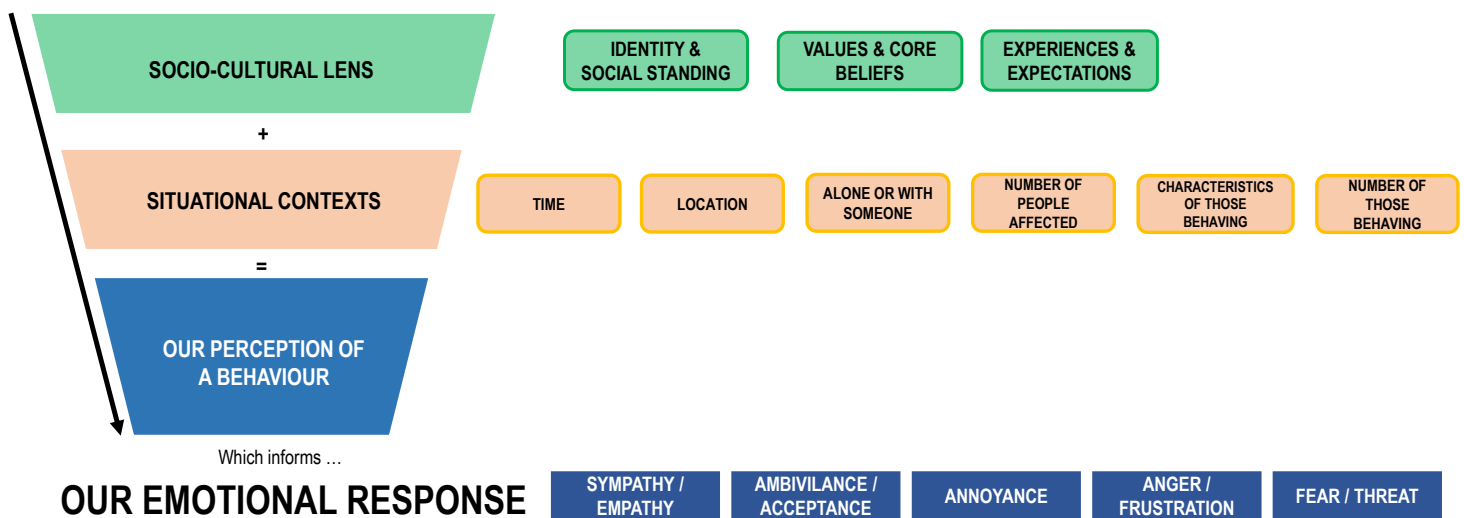


"I don't like seeing them because it makes me feel really sad, I feel sorry for them just thinking about what life must be like in their shoes"

- Whether a person perceives another's behaviour to be a personal choice or a result of external forces is indicative of the level of compassion they are likely to have for that person
- For those Aucklanders we spoke to, feeling that somebody was choosing to partake in a behaviour that they felt was inappropriate for a public place caused them to have feelings of frustration toward that person
- Whereas if they felt that the person's behaviour was out of his / her control they were more likely to empathise or sympathise with him / her
 - *"They could have had a rough upbringing"*
 - *"Something terrible must have happened to them"*
 - *"I try to think of what it must be like for them"*

When seeing individuals partaking in acts where they look vulnerable or desperate, many Aucklanders feel a sense of empathy or sympathy despite them not always understanding the reasons behind the act. This adds a layer of complexity to how people perceive these behaviours

Our socio-cultural lens and situational factors inform our perceptions and emotional response to the behaviours in public spaces

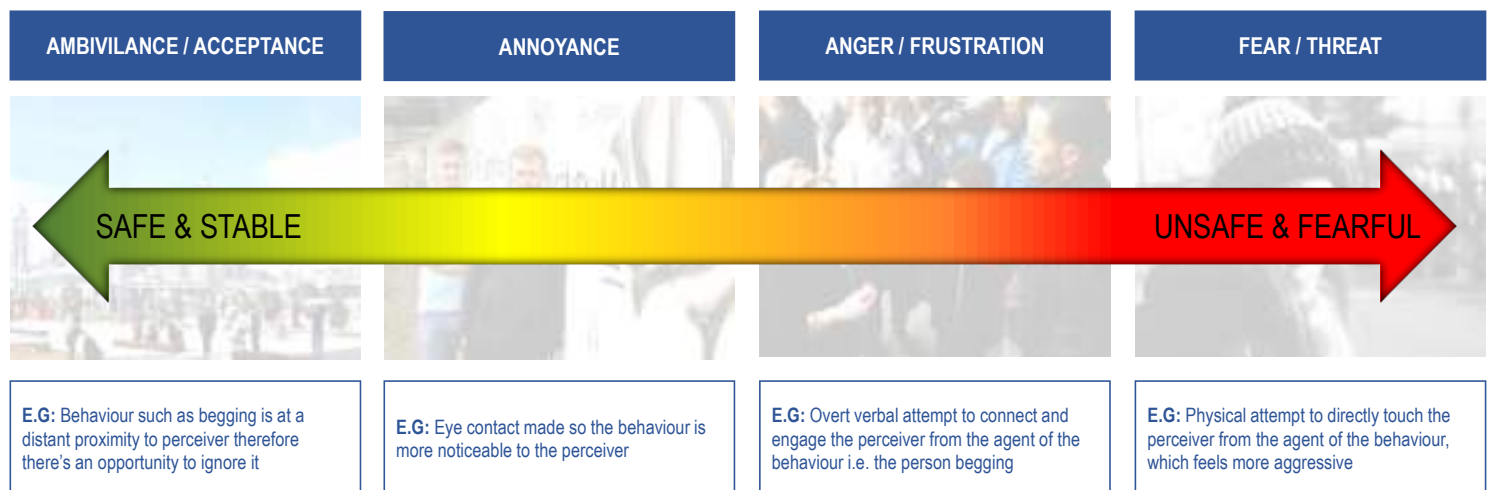


These emotional responses are on a continuum, with different Aucklanders having different thresholds...

Introducing our emotional response continuum...

EMOTIONAL RESPONSE

SITUATIONAL FACTORS +
SOCIO-CULTURAL LENS



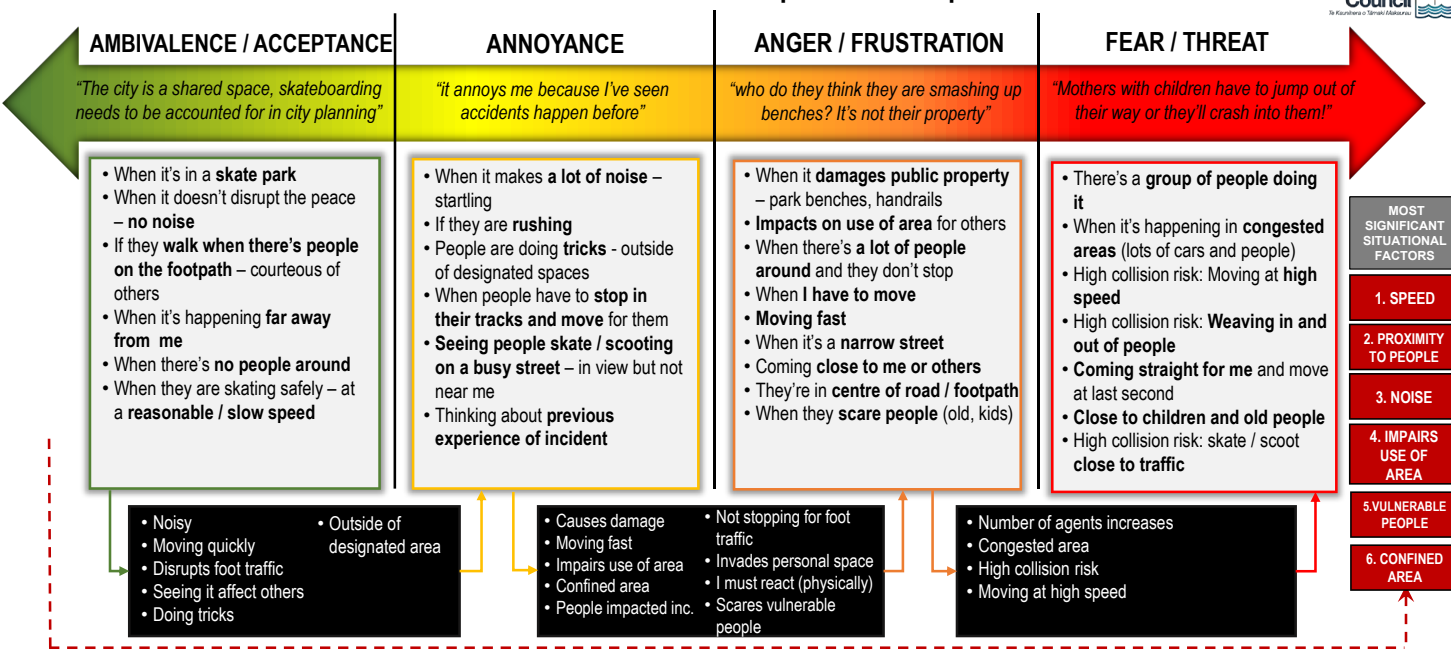


LET'S LOOK AT THE 9 NUISANCES WE
EXPLORED IN CLOSER DETAIL

WE TALKED TO AUCKLANDERS ABOUT 9 PARTICULAR BEHAVIOURS...

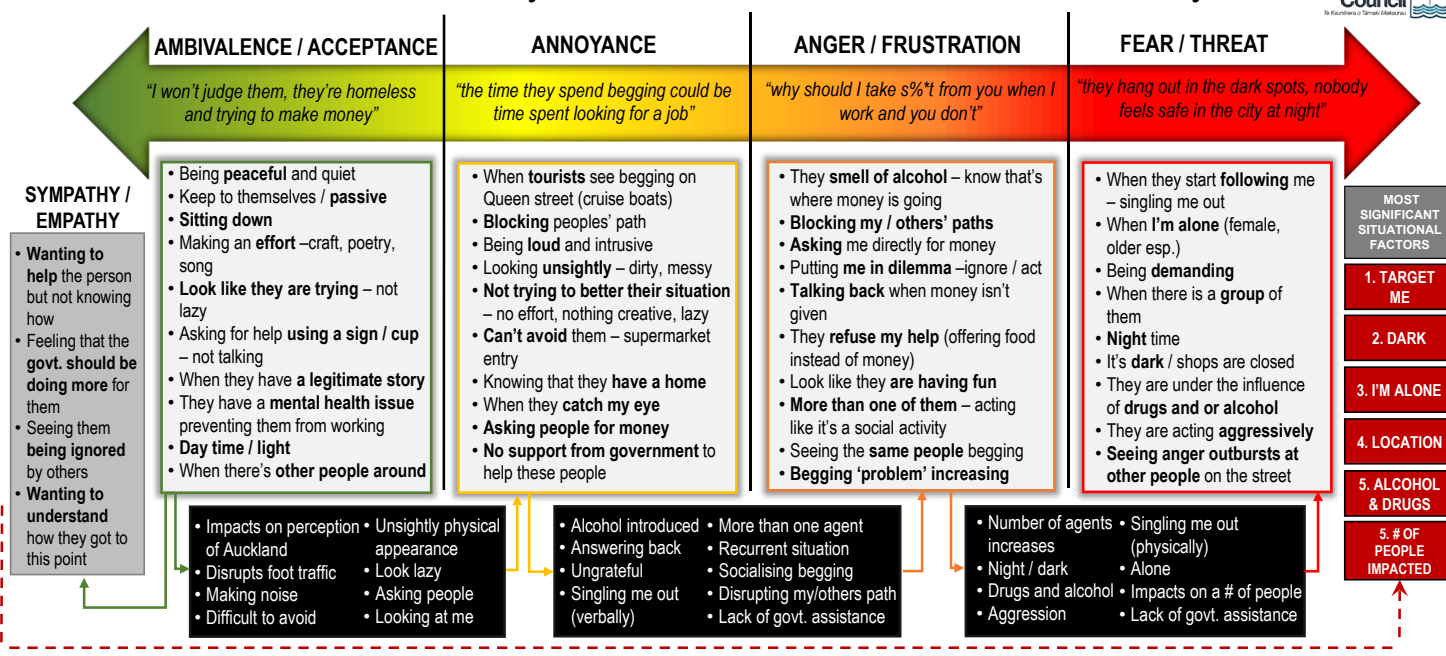


There's an appreciation for the skill and exercise aspects of SKATEBOARDING - but it needs to be set apart from pedestrians

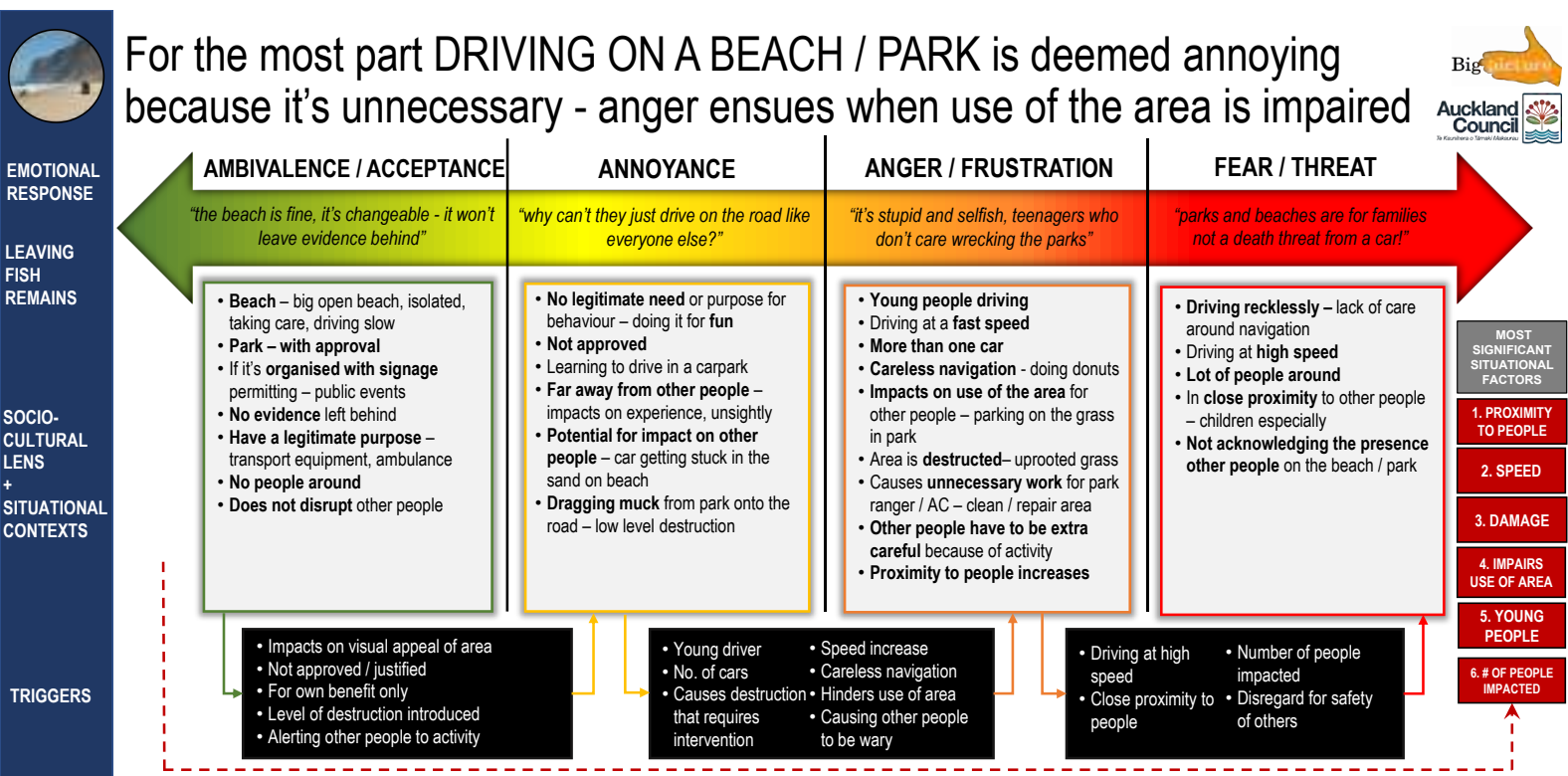


Skateboarding poses a dilemma for many Aucklanders - they understand the transport need it fills and are encouraging of the fact that it's a means of exercise but as soon as it interacts with pedestrians, it becomes less positive

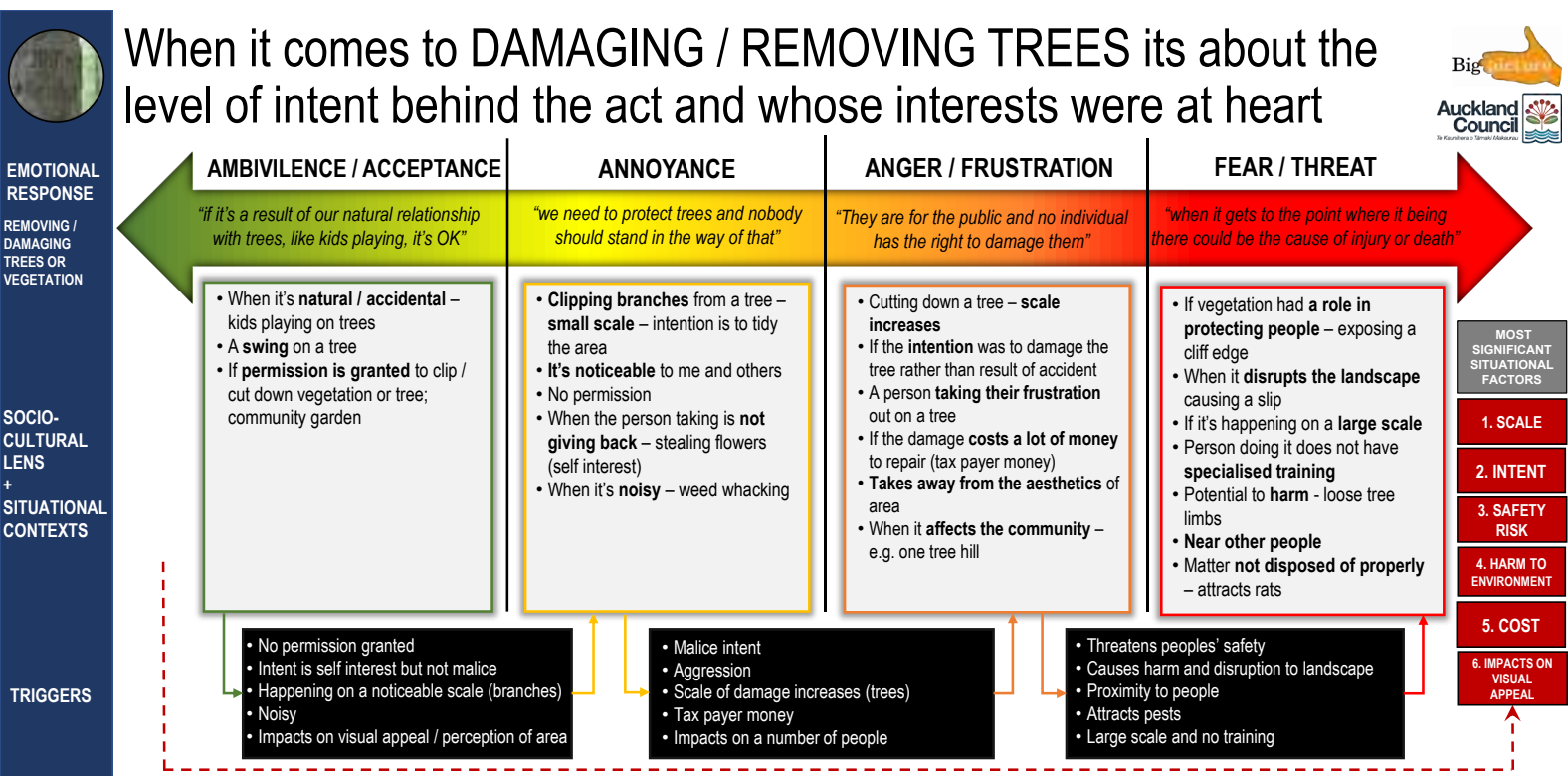
Most Aucklanders are frustrated by BEGGING – it's an act that makes them feel 'uncomfortable' & so many find it easier to choose turn a blind eye to it



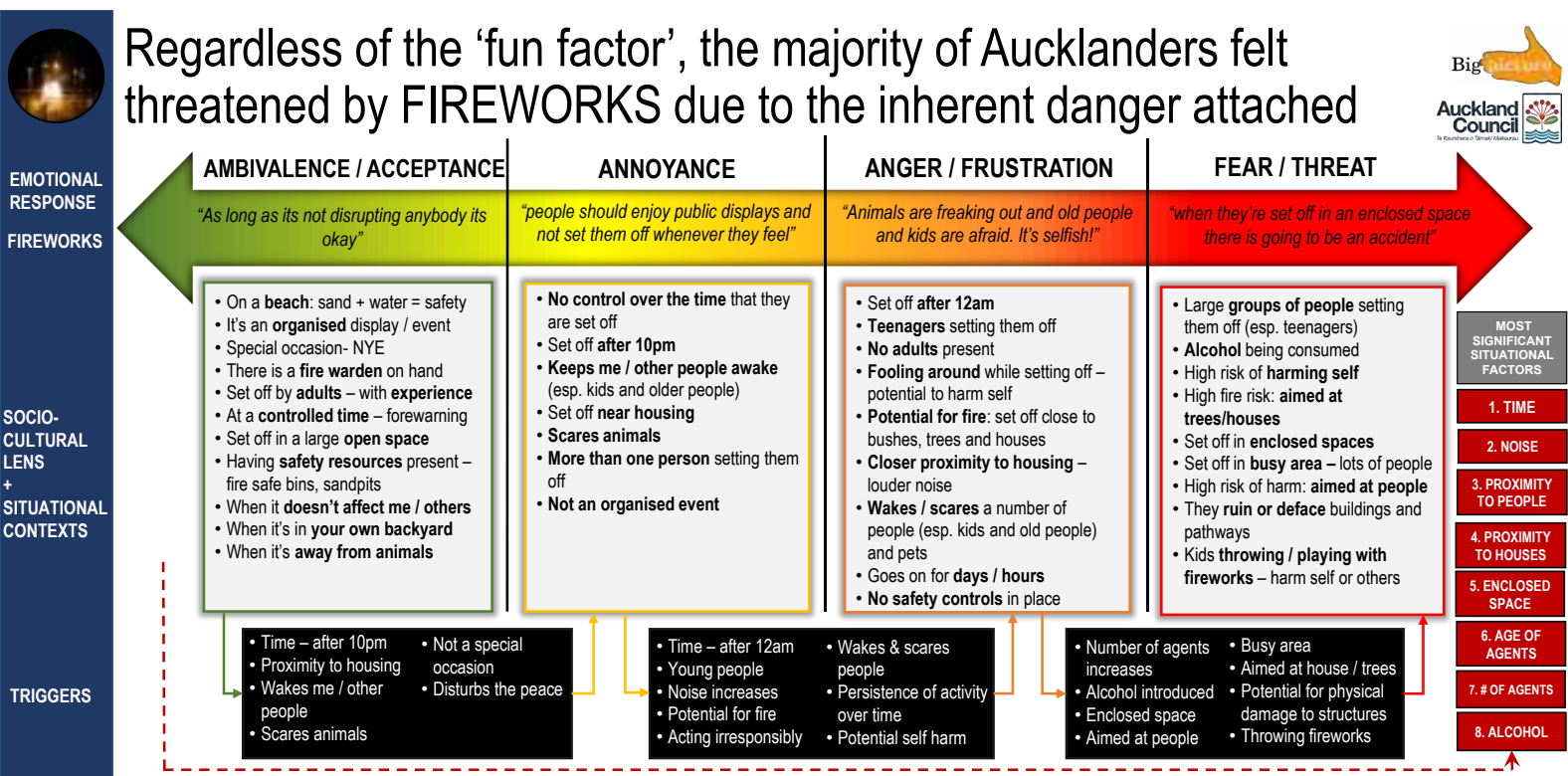
Aucklanders can feel unsettled by this behaviour; some feel overwhelmed by their inability to help on a grander scale or guilty for ignoring a person in need at the risk of reinforcing the behaviour. Others can feel frustrated that the begging puts them in the position of having to act



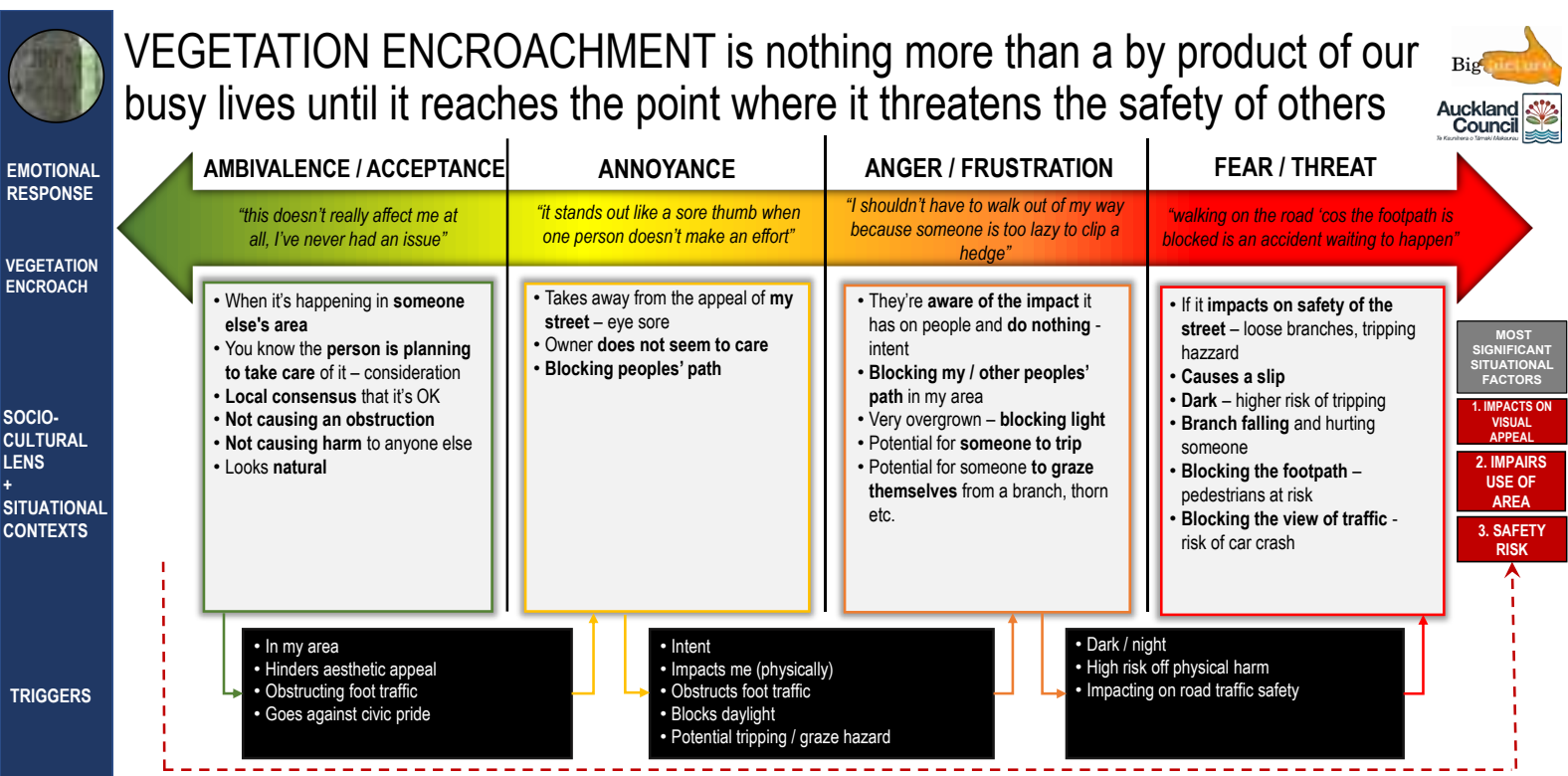
Aucklanders could anticipate this as a potential threat or disruption to their lives and there is no real reason to drive on a beach / park affirms that this behaviour is fuelled by self interest and a lack of regard for others



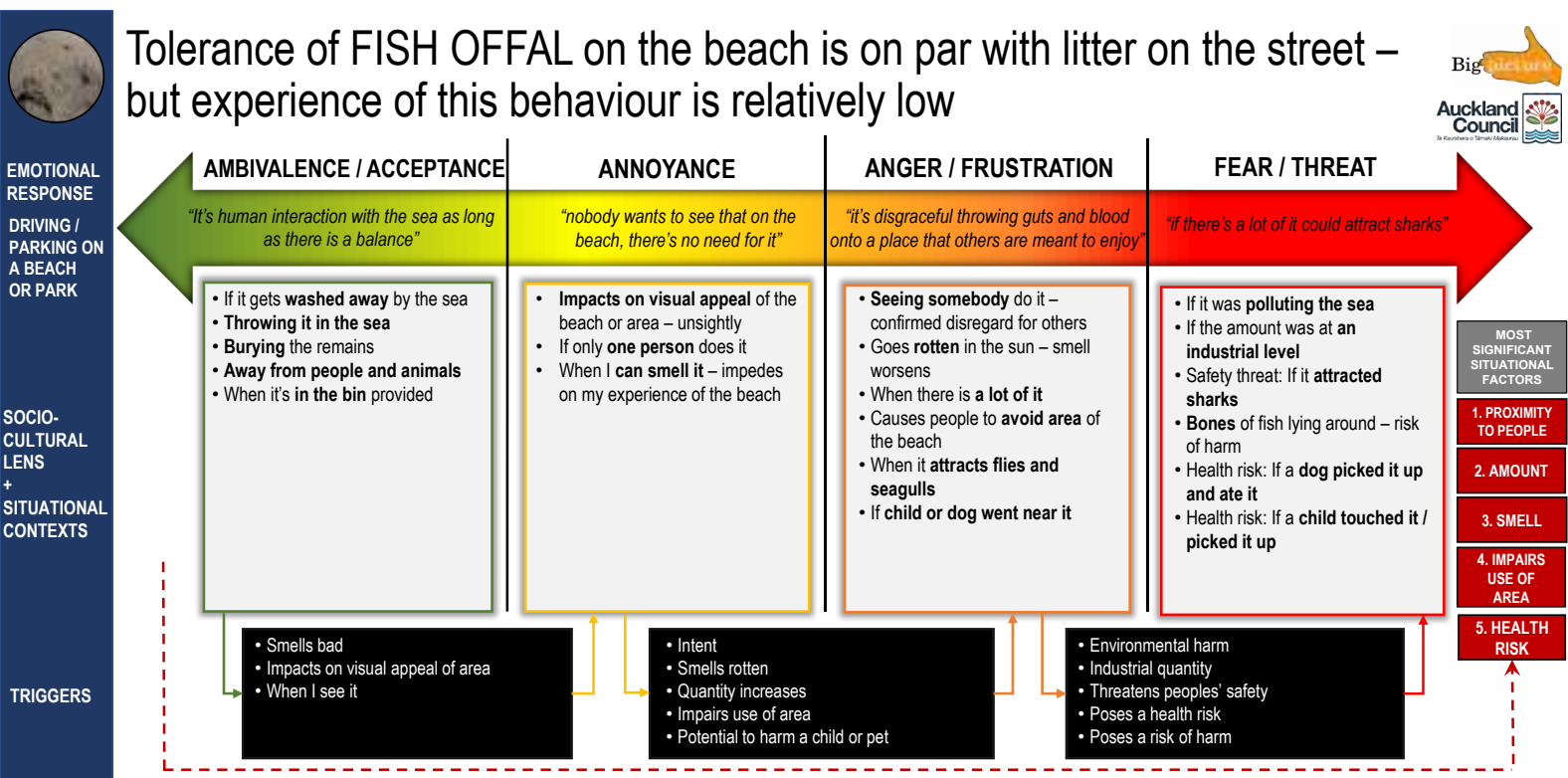
This act disrupts the social code of respecting what is natural & for everyone and comes from a place of self interest, which doesn't sit well with many Aucklanders especially with the Maori and Pacific Islander community



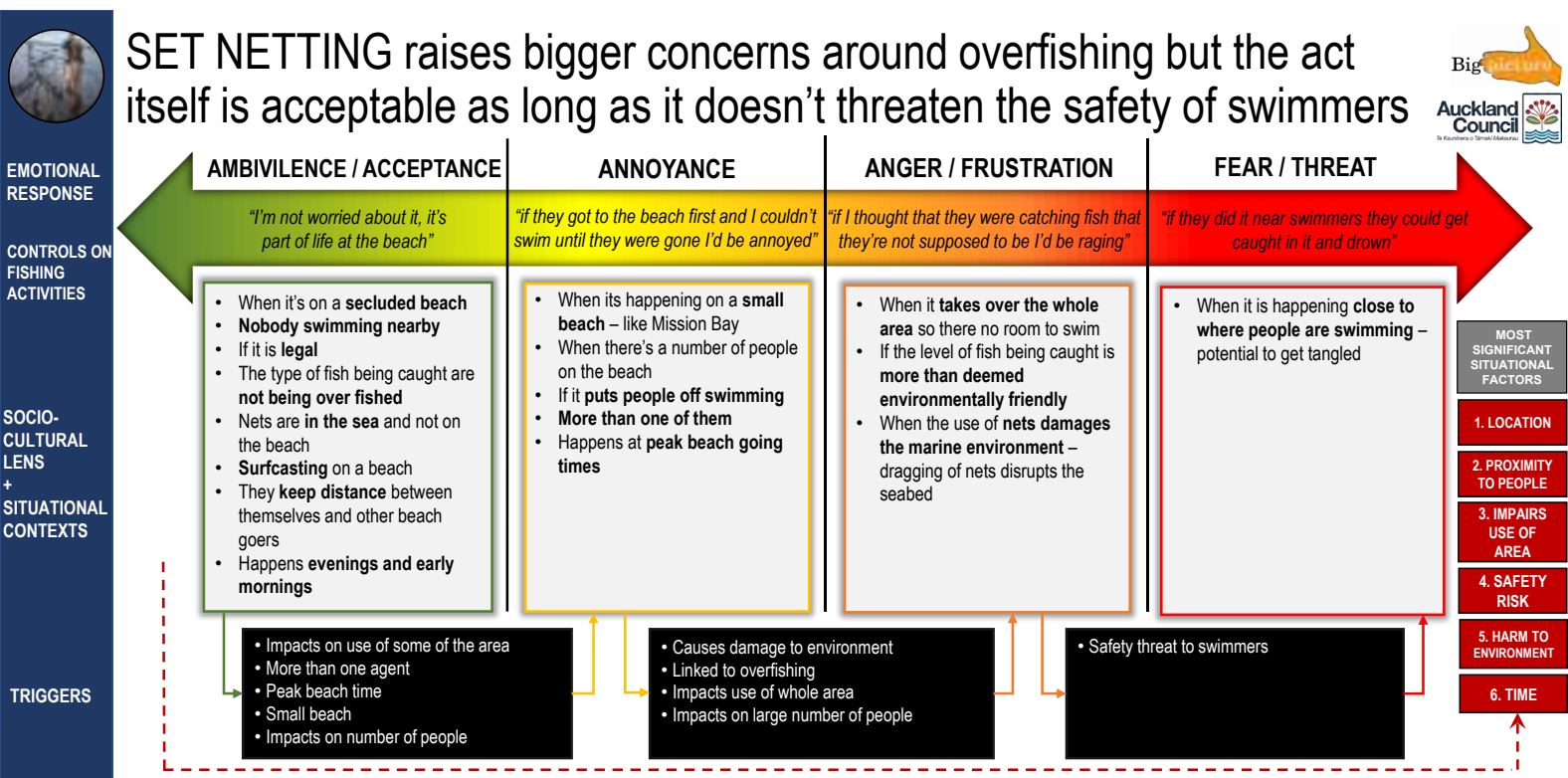
Often a direct or indirect negative experience with fireworks prompted Aucklanders to consider the harmful effects of this behaviour and also question how clear the rules around them are and when it is acceptable versus unacceptable to use fireworks



For the majority of Aucklanders' exposure to this act related to aesthetic appeal and slight foot traffic disturbances – things that they can ignore quite easily and so didn't present as a major issue for many

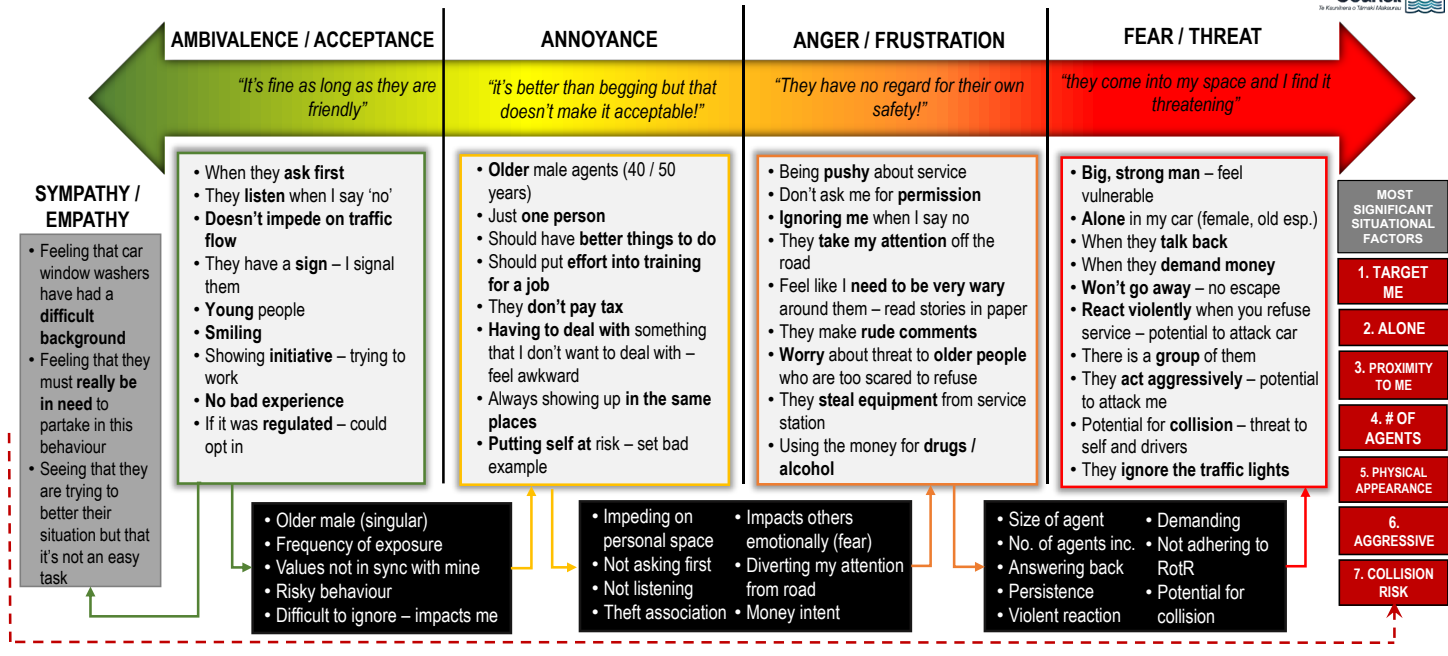


Across the board tolerance for fish offal on the beach was low, but experience of this behaviour was next to none meaning that although this could be an issue it currently is not



It was a lack of knowledge around the legalities and the potential for harm to our marine eco-system that caused a stir for Aucklanders, so when this is all above board the majority are accepting of this behaviour

CAR WINDOW WASHING was cause for frustration for many because it puts them in a position where they feel they have to give, which feels less of a choice



While there was some leniency given for making an effort, it's an act that forces engagement and although some felt confident in broaching these situations (most often males), others found themselves fearing for their own and their kids' safety as well as that of their property

Fireworks are threatening because they have the potential to harm those setting them off as well as others in the local area



"People that don't know how to use them simply let them off. They could set houses alight"

"I've heard of children becoming blind because a group thought it would be fun to set them off in a dark park without supervision"

"The noises of fireworks wake up children and scare dogs"

- The time fireworks are set off in public areas is what drives the frustration and what makes them a nuisance behaviour
 - Often it is late at night so is disruptive to Aucklanders' evenings / sleep
- Fireworks become more threatening through the misuse of them in public spaces where others could be affected
 - Especially for those who have children, pets or live near elderly people, the closeness of fireworks to their home felt intimidating & dangerous

Aucklanders suggested that we need to focus more on enforcing existing fireworks regulations (as many did not know that setting them off in a public place is currently banned) and work throughout the year to ensure greater awareness of the associated risks

Begging and car window washing come up consistently as being more frustrating because Aucklanders are being 'directly engaged'

"I don't ever make eye contact with them because I know they'll come over"

"I often lock my doors when I see them approaching. A lot of them choose to do it – it's tax free money"

"I never know whether I should give or not, or what the car behind thinks"



"I hate begging. It makes me feel guilty...It breaks my heart. I hate saying no when they ask"

"It makes us look like we don't look after our people"

"I see the same guy everyday with a sign saying 'looking for work' but he's not looking is he!"



- The act of being directly asked by a car window washer or beggar is what drives Aucklanders' frustration to these public behaviours
- Having to acknowledge that they do these activities for money & the need to respond in public in front of others makes most Aucklanders feel uncomfortable
 - The pressure to respond by giving money makes Aucklanders begrudge the act. It is a version of society that most do not like the look of as it contradicts their ideals
 - And there's an element of helplessness experienced by those Aucklanders who want to help but feel that the situation is beyond their control
- Some Aucklanders struggled to understand why individuals are engaging in these activities, with most assuming it's by choice
 - This left some Aucklanders feeling cynical towards those who they felt could be making money elsewhere rather than taking what they perceived to be the easy route

All those we spoke to felt that car window washing and begging needed to be proactively managed in Auckland. But whose responsibility do those we spoke to say it is to better manage these public behaviours?

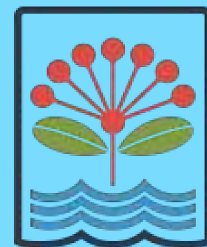
COMMUNITY



INDIVIDUAL



AUCKLAND COUNCIL



NZ POLICE



Aucklanders talked to the management of these behaviours by referring to four distinct categories...



Managing Aucklanders' expectations with these behaviours is as much of a challenge as managing the behaviours themselves. We need to employ a multi pronged approach where we inform whilst acting, in order to meet Aucklanders' needs and expectations

What does management look like at each of the different levels?



For the three most frustrating public nuisance behaviours Auckland Council alongside law enforcement agencies is seen to have clear responsibility

How Aucklanders felt these behaviours should be managed....



EMPOWER + ENABLE



- Initiatives & ideas around alternative safer and 'greater good' activities to raise funds e.g. car wash / community gardening – allocating potential areas where car washing is prohibited
- Provide high vis vests to those who window wash to promote safe practice. Also encouraging car window washers to 'ask before approaching' as a means of promoting more positive experiences and debunking existing negative associations
- For highly congested areas, erect signage that deters large groups from window washing
- Introducing fines for repeat offenders who do not adhere to recommended practices



EDUCATE + ENABLE



- Being aware of areas at night that feel more threatening and find alternative routes
- Positive reactions to the provision of lockers for storage of belongings as this speaks to removing beggars from sight
- Introduce 'no go areas for beggars' as part of zoning so that they are not loitering near supermarkets and retail stores
- Collaborating with inter-government agencies to continue providing support for beggars – rehabilitation / financial, housing / moving into the workforce and shelters / soup kitchens
- Law enforcement for beggars in no go areas and persistent and/or aggressive behaviour



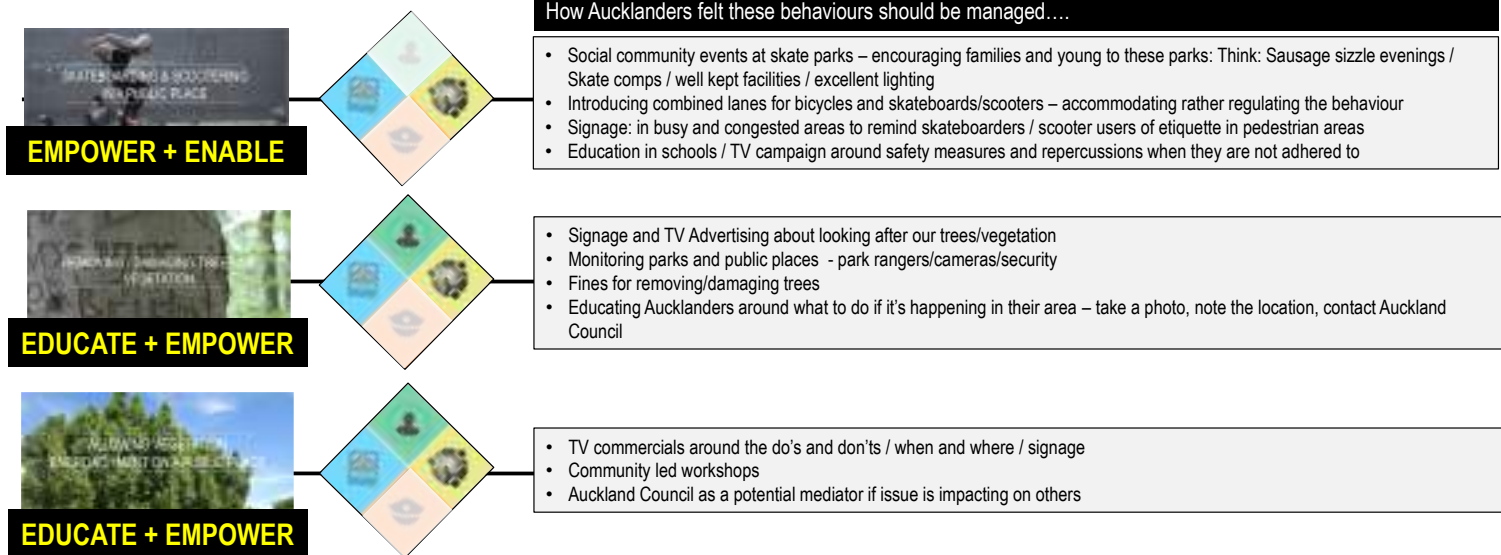
EDUCATE + PROTECT



- Increase awareness about the dangers of fireworks and be more mindful of disturbances to others. With the help of TV commercials around the do's and don'ts we could reinforce the rules when it comes to fireworks in a practical way
- Create a list available online that recommends appropriate beaches and / or parks are most suitable to set off fireworks. In those areas have signage that promotes responsible use
- Provide sand buckets in 'fireworks zones' so that disposal and use of fireworks is safer
- Law enforcement as required
- Banning fireworks altogether was suggested by Aucklanders who felt that public displays only would be sufficient moving forward

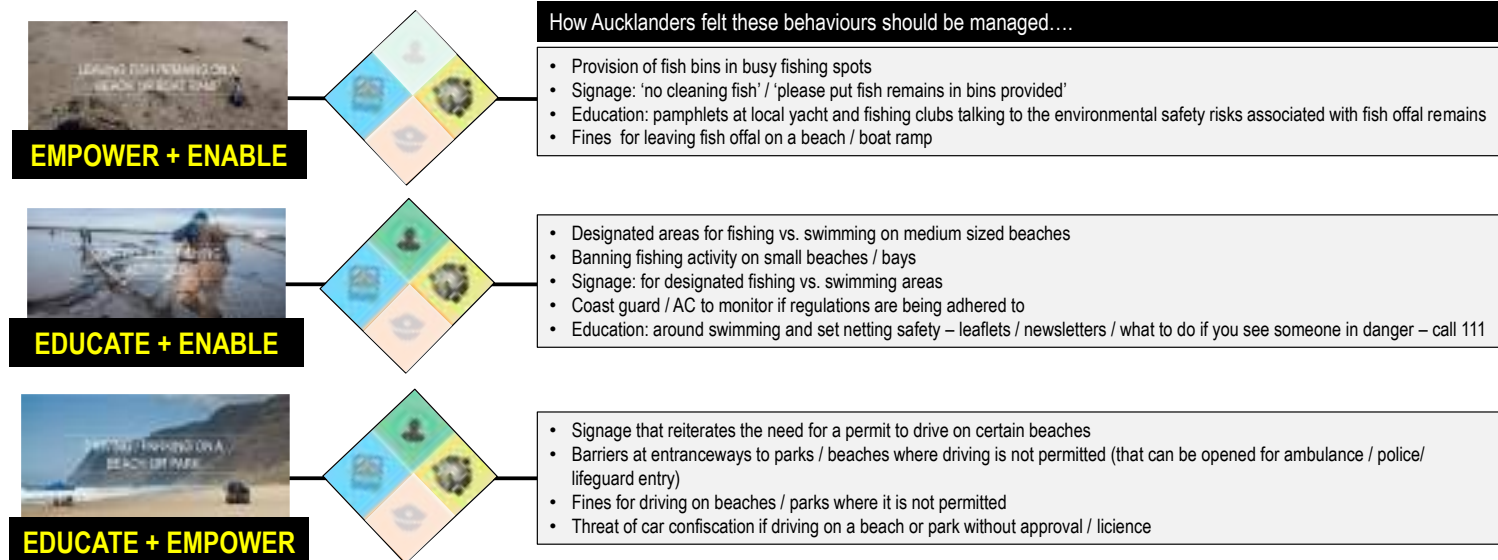
In Aucklanders' minds these are the public nuisance behaviours that require proactive regulation because of the impact they have on others and the potential that exists for them to be dangerous / threatening

For other public nuisances Auckland Council is considered to be a supporter and advocate of best practice



Positive reinforcement of our existing practices i.e. skate parks, fencing and maintenance of trees and vegetation, subconsciously contribute to Aucklanders' believing Auckland Council is sufficiently looking after our trees and vegetation

For fishing and beach specific activities Auckland Council needs better signage to inform and positively change behaviour



For those who felt they would be affected by these fishing and beach related behaviours, they thought better education and raising public awareness was needed in order to minimise the impact on others – this approach was preferred over fining or more regulatory activity

A SUMMARY OF OUR KEY LEARNINGS TO MOVE FORWARD INTO QUANT



1

Aucklanders' perceptions and emotional responses to public nuisances is informed by their socio-cultural background and their situational contexts. There is huge variation in how individuals experience different behaviours so managing their reactions requires a multi-directional approach because one size does not fit all. How relevant are each of the situational contexts? Are there factors that are more or less influential across different public nuisance behaviours? And do Aucklanders' emotional responses change based on their background?

2

We feel there are three key public nuisances that are most frustrating to Aucklanders along the emotional response continuum that breach the annoyance/ threatening threshold; Setting off fireworks, car window washing and begging. No alternative public nuisance behaviours that are currently not in the Bylaw came up, which could indicate that behaviours that are most annoying are felt to be covered. Are these the most annoying to Aucklanders because of their association with potential danger (fireworks) and direct engagement (car window washing, begging)?

3

The levels of management and perceived responsibility for each nuisance behaviour is derived from how threatening each are and who is involved. Auckland Council is considered an integral part of managing each of the different behaviours in different ways - how involved should Auckland Council be in regulating these behaviours? Directly or indirectly?