

# Proposed Auckland Transport Election Signs Bylaw 2013 amendment 2

## Recommendations

That the board:

- i). proposes to amend the Auckland Transport Elections Signs Bylaw 2013.
- ii). under sections 83 and 86 of the Local Government Act 2002, adopts Attachment A: Statement of proposal 'Amendments to the Elections Signs Bylaw 2013' for public consultation.
- iii). Under section 155(2)(b) of the Local Government Act 2002, confirms the proposed amendments are not inconsistent with the New Zealand Bill of Rights Act 1990.
- iv). appoints a Hearing Panel of up to four members including an elected representative and one member of the Independent Maori Statutory Board to hear submissions, deliberate and make recommendations to the board on the proposed amendments to the Election Signs Bylaw 2013.
- v). authorises the Chair of the Auckland Transport Board to appoint a substitute member of the Hearing Panel in the event that an original appointee becomes unavailable
- vi). authorises the Chair of the Auckland Transport Board to make any minor edits or amendments to the Statement of Proposal or Draft Bylaw prior to consultation to correct any identified errors

## Executive summary

This report recommends that the Auckland Transport Board adopt a Statement of Proposal that amends the Election Signs Bylaw 2013, through a special consultative procedure to be conducted in May 2014.

The objective of the Election Signs Bylaw 2013 is to provide for a consistent set of controls for election signs and an integrated system of determining the sites on public places visible from the road that are appropriate for the display of election signs across Auckland for parliamentary and local authority elections.

The proposed amendments in this Statement of Proposal are a mixture of technical changes to wording to provide greater clarity in areas that allowed for confusion during the local elections in October 2013 and changes to some of the policies in the bylaw on the basis of changing trends and the practical experience of that election.

The changes to the provisions in the bylaw relate to the following areas:

- expressly allowing for the addition of explanatory notes;
- suspending approved sites that become temporarily unsuitable;
- limiting the period signs can be displayed on private sites to the same as public sites , and the height of those signs;
- minimum size of signs and position within approved sites;
- allowing for candidates to appear on both individual and team signs on the same approved site;
- readability of the contact details for the person responsible for maintaining each election sign
- imposing number limits on signs promoting election and referenda issues in the same way as candidates, teams and parties.

The Statement of Proposal in Attachment 1 to this report outlines the details of the issues identified, the options considered, and the text of the amendments themselves.

## Strategic context and legislative requirements

Auckland Transport has to give effect to the strategic direction in the Auckland Plan as well as any other strategic documents such as the Unitary Plan. The Auckland Plan sets out the strategic direction for Auckland to become the world's most liveable city for the next 30 years by identifying the targets and priorities that need enhancing, whilst the Unitary Plan will combine both regional and district planning functions to give effect to the Auckland Plan, using rules and incentives to achieve high quality outcomes.

The proposed amendments to the bylaw provide an administering function to complement both plans. It is consistent with the Auckland Plan's strategic direction 12: *plan, deliver and maintain quality infrastructure to make Auckland liveable and resilient*, through the control on the location of the election signs.

The proposed amendments will discourage the proliferation of signs on public land and ensure safety and amenity values are retained.

### Legislation applying to elections signs

The display of election signs is a significant part of campaigning for elections and by-elections. Election signs are subject to the provisions of the Electoral Act 1993 and the Electoral (Advertisements of a Specified Kind) Regulations 2005 as well as bylaws made under the Land Transport Act 1998 (LTA98).

### Auckland Transport bylaw making powers

Auckland Transport has statutory powers as a road controlling authority to make bylaws that control signs (including election signs) that are on, or visible from the Auckland transport system in accordance with section 22AB(1)(y) of the LTA98.

Auckland Transport's legislative authority derives from sections 45 and 46 of the Local Government (Auckland Council) Act 2009. Section 54 of that Act provides that Auckland

Transport cannot delegate the power to make a bylaw and Section 50 prohibits Auckland Council from making a bylaw where the legislative power has been conferred on Auckland Transport.

## Background

On 30 May 2013, Auckland Transport, as road controlling authority for Auckland, made the Auckland Transport Election Signs Bylaw 2013 under section 22AB(1) of the Land Transport Act 1998.

After the bylaw was made some candidates raised concerns about a provision that the Hearing Panel recommended be added to the bylaw based on submissions. Additionally staff at Auckland Transport and Auckland Council identified some issues with the interpretation and operation of the bylaw that could benefit from clarification by amendment of the bylaw. The most immediate issues were amended in July 2013 (via amendment one) in readiness for the local elections. It was recognised and was intended that further potential amendments would be identified after experience with the bylaw during the local elections. This proposal (amendment two) attends to those issues, and each proposed change is discussed below.

## Scope of the Bylaw

The bylaw covers local government elections (including licensing trusts and district health boards) and parliamentary elections. The bylaw will not cover elections for school boards or tertiary institutions. Signs for these elections will continue to be subject to the current legacy signs bylaws, district plan and Unitary Plan rules and signs for these elections are not authorised to use the approved sites resolved under the bylaw.

## Specified sites for election signs

During the operational implementation of the bylaw and through last year's local government elections it became obvious that a number of the approved sites were impractical, and that there were not enough sites available in some areas. The proposed amendments to the bylaw deal indirectly with this issue, by clarifying the rules of the approved areas use, and the size and number of signs. A parallel process is underway to review the existing sites in particular parts of Auckland. This will be reported through the relevant Auckland Transport committee to approve any changes to the list of specified sites. To help the review of sites and the process Auckland Transport in conjunction with Auckland Council have developed a set of assessment protocols.

## New Zealand Bill of Rights Act 1990

As a road controlling authority, Auckland Transport is authorised to make a bylaw regulating the display of signs on roads or visible from roads. The bylaw is also consistent with the purpose of Auckland Transport in section 39 of Local Government (Auckland Council) Act 2009 to contribute to an effective and efficient transport system to support Auckland's social, economic, environmental and cultural well-being.

Consideration was given as to whether the types of controls in the bylaw would give rise to any implications in terms of the Bill of Rights Act and in particular whether the controls place unreasonable limits on the right to freedom of expression. The controls included in the bylaw are considered reasonable restrictions which are fair to all candidates, and will

minimise adverse impacts on road safety and amenity values and ensure the mandate and purpose of Auckland Transport are appropriately delivered.

## Issues and options

The alternative option for each issue is to keep the existing wording of the bylaw. Staff do not recommend that approach for each of the issues as detailed below.

### Issue 1: Explanatory notes

The bylaw currently does not include explanatory notes to assist with the understanding of the bylaw provisions. While potential confusion about the provisions may be dealt with through the publication of a guide by the electoral officer, the proposed inclusion of explanatory notes in the bylaw ensures ease of reference in a single document, authorised by the Board of Auckland Transport.

### Issue 2: Temporary closure of public sites

Sites on public land that have been specified by Auckland Transport for the display of election signs occasionally become temporarily unsuitable, for example due to construction work. Election signs have nevertheless been displayed on these sites, causing conflict between candidates and contractors. The proposed amendments allow Auckland Transport to more easily disallow use of such sites.

### Issue 3: Period for use of private property to display signs

While the current provisions of the bylaw restricts the display of election signs on specified public sites during the regulated period of nine weeks before the election, the restriction does not apply to any private sites.

Consequently, election signs are displayed on private sites before they may be displayed on public sites, leading to confusion and unnecessary visual distraction. In addition, the current provision may be interpreted to mean that election signs may only be displayed on private sites on fences adjoining a public place. Clarification is required that signs may be displayed anywhere on private sites on condition the display meets other applicable legal requirements.

### Issue 4: Minimum size of signs and position within the site

To help provide the maximum or optimum use of the site by candidates, election signs displayed on specified sites occasionally protrude from the boundaries of the specified area. This may affect the visual amenity of the area, be a distraction to passing motorists or cause danger to passers-by.

While the bylaw prescribes the maximum size of an election sign that may be placed on a specified site, the restriction does not apply to signs on private sites. In addition, no minimum size for election signs on public or private sites has been specified.

This omission has resulted in oversized signs being displayed on private property that causes unnecessary harm to visual amenity of the neighbourhood.

The display of undersized signs on designated public sites cause a safety risk as the signs are not always adequately secured. The small size of these signs also divert the attention of the drivers of vehicles, causing potential risk to public safety.

#### **Issue 5: Number of team and individual signs on any one public site**

On each specified site on a public place the bylaw provides that each candidate may only place a single sign for each election she or he is standing in. This helps to preserve visual amenity and access for all candidates.

A candidate may stand in more than one capacity in a local government election, for example as Mayor, ward councillor, and/or as local board member and/or as district health board member. In this case, the candidate could display up to four signs on a public site.

For parliamentary elections an additional sign may be displayed to promote voting for a political party. Provision is made for political parties due to the mixed member proportional system (MMP) used in New Zealand for parliamentary representation. Similar provision has not been made for local government elections as the election system does not provide for party votes.

However, a developing aspect of local government elections in Auckland is the emerging association of candidates aligned to the same causes or organised in interest groups. Signs containing the particulars of a number of such candidates are therefore a feature of the local government elections. During the local government election in October 2013 the requirement of displaying one sign per candidate per site and the display of "team" signs on that site in addition to candidate signs caused confusion.

The proposed amendment therefore provides for this approach, and seeks to include these types of signs within the balance between restriction, visual amenity and access.

Although the bylaw also aims to provide for signage relating to referenda and for signs promoting causes that are not related to a particular candidate as election signs, such as "vote local" campaigns, no provision is made in the bylaw for the regulation of such signage.

#### **Issue 6: Signs promoting election issues**

Although the bylaw provides for signage relating to referenda and for signs promoting causes that are not related to a particular candidate as election signs, no further provision is made in the bylaw for the regulation of such signage.

During the October 2013 local government election signs appeared that were not endorsed or provided by particular candidates but that were displayed by community groups that were concerned about particular issues and attempted to persuade voters in a particular manner. Typically these signs encouraged voters to "vote local" or to protect community assets without endorsing specific candidates. Similar signs displayed by local candidates are already restricted to one sign per candidate per public site as provided for by clause 8(1)(b).

### **Issue 7: Legibility of the contact details of the person responsible for the sign**

The bylaw requires that each sign must clearly display the name and contact details of the person responsible for the sign. This ensures that if any issues arise in relation to the sign there is a clear contact person who can be called by compliance staff to correct the situation. During the local government election of October 2013 it was often found that whilst these contact details may have been clearly present they were not always able to be easily read by the compliance staff and they therefore were not as effective as intended.

Auckland Transport proposes an amendment to clause 7(1)(e) to require that the name and contact details on each election sign be legible from a distance of 1 metre.

### **Issue 8: Simplification of provisions**

This proposal also makes a number of minor changes to the drafting of the bylaw to simplify the provisions or to update references to comply with recent statutory amendments.

### **Financial Impact**

The decision to commence the special consultative procedure to amend the Auckland Transport Election Signs Bylaw 2013 has only very minor financial impacts to cover the cost of the process. The administration and enforcement of the bylaw will be undertaken by Licensing and Compliance Services at Auckland Council in accordance with their current delegation. No additional financial impacts on Auckland Council or Auckland Transport have been identified as arising from any of the proposed amendments.

### **Stakeholder engagement**

The proposed amendments have arising from comments received before, during and since the local elections in 2013 from external stakeholders and staff within Auckland Transport and Auckland Council. The proposed amendments have been drafted jointly by staff in both organisations and have been described to the members of the Auckland Council Regulatory and Bylaws Committee.

The decision to commence the special consultative procedure for the amendment of the Auckland Transport Election Signs Bylaw 2013 will initiate the public consultation on the proposals. A public notice will be placed in newspapers, the Statement of Proposal and draft amendment bylaw will be made available on the Auckland Transport and Auckland Council websites, and be provided in hard copy to anyone who requests it. Additionally copies of the Statement of Proposal and draft amendment bylaw will be emailed directly to councillors and local board members and to relevant external stakeholders. Including political parties, the Commissioner of Police and NZTA.

### **Hearings panel**

A hearing panel is proposed to be established to receive and consider written and oral submissions and additional information from officers relating to the submissions. The panel would then deliberate on and recommend a final set of amendments to the bylaw. Their recommendation must then be considered by the Board (as only the Board can amend the bylaw).

It is recommended that the panel include up to four members, and have available relevant expertise. The panel is expected to be required for up to two days, currently proposed to be 12 and 13 June 2014.

## Next steps

Public notice inviting submissions will be made as soon as reasonably practicable.




Hearing and deliberation times will be scheduled with the appointed hearings panel, supporting any final amendments being reported for approval of the board at its meeting on 24 June 2014.

The proposed bylaw amendments will be published on the Auckland Transport and Auckland council websites.

## Attachments

Number	Description
A	Statement of proposal 'Amendments to the Elections Signs Bylaw 2013
1	Proposed Statement of Proposal and Auckland Transport Election Signs Bylaw 2013 (amendment two)
2	Auckland Transport Election Signs Bylaw 2013

## Document ownership

<b>Submitted by</b>	Terry Sugrue <b>Regulations and Standards Manager</b> <b>Road Corridor Operations</b>	
<b>Recommended by</b>	Greg Edmonds <b>Chief Operating Officer</b>	
<b>Approved for submission</b>	David Warburton <b>Chief Executive</b>	

## Glossary

Acronym	Description
LTA98	Land Transport Act 1998

**STATEMENT OF PROPOSAL**

**AMENDMENT OF THE AUCKLAND TRANSPORT ELECTION SIGNS BYLAW 2013**

**Summary**

**Introduction**

1. The legislation establishing Auckland Council and its council controlled organisations empowered Auckland Transport to make bylaws for the display of signs, including election signs, that are located on or visible from the Auckland transport system. (The Auckland transport system includes the public transport infrastructure and roads of Auckland other than motorways and state highways). On 30 May 2013 Auckland Transport, as a road controlling authority for Auckland, made the Auckland Transport Election Signs Bylaw 2013 ("the bylaw") under section 22AB(1) of the Land Transport Act 1998.
2. Election signs are subject to the provisions of the Land Transport Act 1998, the Electoral Act 1993 and the Electoral (Advertisements of a Specified Kind) Regulations 2005. The contents and period of display of election signs are not subject to the control of local authorities but local authorities may determine the sites where signs can be displayed. Section 3B of the Electoral Act 1993 enables to the placing of election signs in a "regulated period" from the day that is two months before the polling day. The Auckland Transport Elections Signs Bylaw 2013 gives more certainty by allowing election signs to be erected on the Saturday 9 weeks before an election. Consequently it is expected that political parties will erect election signs on 19 July 2014 at sites provided for by Auckland Transport. The proposed amendments will be finalised before this period commences.
3. Prior to the commencement of the election period for the September 2014 general election, Auckland Transport wishes to review the bylaw to provide greater clarity where some aspects of the bylaw were open to different interpretation and to alter some policy positions.
4. Auckland Transport proposes the amendment of the bylaw with the making of the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 (Attachment 1) that sets out the proposed amendments to the bylaw. A consolidated copy of the Auckland Transport Election Signs Bylaw 2013 as it will look once the amendment has been made is attached as Attachment 2.

**Statutory requirements**

5. Section 22AD differentiates between road controlling authorities which are, and those which are not, local authorities. The section prescribes a limited number of persons a road controlling authority has to consult with when making a bylaw, if the road controlling authority is not a local authority. The prescribed process does not require public notice to be given nor does it require the road controlling authority to



hold a hearing. However, road controlling authorities that are local authorities are required to make use of the special consultative procedure provided for by the Local Government Act 2002. While Auckland Transport is not a local authority, section 46(1)(g) of the Local Government (Auckland Council) Act 2009 provides that Auckland Transport "*has the functions and powers of a road controlling authority and a local authority under the Land Transport Act 1998*".

6. The regulation of election signs in local and general elections are of interest to political parties, candidates, electors and the public. It is in the public interest that Auckland Transport is regarded as "*a road controlling authority that is a local authority*" for the amendment of this bylaw and that it conducts public consultation on the proposed amendments using the special consultative procedure. Consequently Auckland Transport will use the special consultative procedure as it ensures wider public participation in the amendment of the bylaw.

### **Special consultative procedure**

7. In accordance with the special consultative procedure Auckland Transport has given public notice of the proposed amendments as well as notice to identified stakeholders as required by sections 86 and 156 of the Local Government Act 2002. One month has been allowed for submitters to make written submissions on the proposed amendments where after a hearing will be held to hear and consider verbal submissions before any amendments are approved.
8. In compliance with the Land Transport Act 1998 Auckland Transport has also given written notice to the persons specified in the section 22AD of its intention to make a bylaw and to give a reasonable time for people to make written submissions on the proposal.

### **Reasons for the proposal**

9. Election signs are temporary signs displayed for a limited period before elections to promote democratic governance. Measures by Auckland Transport to regulate election signs are designed to restrict the rights of candidates and political parties no more than are reasonably necessary to ensure the safety of the public while providing clear, consistent and fair regulation for all candidates and parties. The current proposals are to address challenges and improve or clarify the requirements of the bylaw to ensure practical solutions for the issues arising from and experienced by the electoral officer, enforcement officers and candidates during the local government election of October 2013.
10. The local government election of October 2013 provided the first opportunity for the electoral officer and staff responsible for administration of the bylaw to implement the bylaw. Signage for elections held before May 2013 was administered under legacy bylaws that did not provide integrated regulation of election signs in Auckland. In August 2013, before the local government election, Auckland Transport made only the most urgent minor amendments to the bylaw in response

to issues raised by candidates who were concerned about what they saw as unnecessarily restrictive and confusing requirements. Staff had identified other aspects of the bylaw that might benefit from adjustment to the wording but as these were not urgent further amendment was left until after the local government elections when a broader review could be undertaken.

11. A review of the bylaw following the local government elections and the experience of the electoral officer and staff responsible for the administration of the bylaw have identified further minor amendments to some of the policies and other provisions which appeared to cause confusion. While some amendments are required, often potentially confusing provisions may be clarified by the insertion of explanatory notes to assist with the application of the provisions.

### **Current situation**

12. Election signs are regulated by the Land Transport Act 1998, the Electoral Act 1993 and the Electoral (Advertisements of a Specified Kind) Regulations 2005 and the bylaw. On 30 May 2013 Auckland Transport made the bylaw under section 22AB(1) of the Land Transport Act 1998. This bylaw covers a variety of aspects including the construction, size, number and location of election signs.
13. The bylaw provides adequately for the regulation of election signs but improvements may be made to provide clarification in some areas and there has been a request that some of the policies contained in the bylaw be changed to allow greater flexibility based on experience during the local government election in October 2013.
14. Other signs, including signs relating to political meetings, are regulated by district plans and legacy bylaws made by the legacy councils in the Auckland region and inherited by Auckland Transport and Auckland Council. The regulation of signage is part of the bylaw review programme by Auckland Transport and Auckland Council that will replace the diverse requirements with a region-wide bylaw that will be concluded by October 2015.

### **Strategic context**

15. Auckland Transport has to give effect to the strategic direction in the Auckland Plan as well as any other strategic documents such as the Unitary Plan. The Auckland Plan sets out the strategic direction for Auckland to become the world's most liveable city for the next 30 years by identifying the targets and priorities that need enhancing, whilst the Unitary Plan will combine both regional and district planning functions to give effect to the Auckland Plan, using rules and incentives to achieve high quality outcomes.
16. The proposed amendments to the bylaw provide an administering function to complement both plans. It is consistent with the Auckland Plan's strategic direction 12: *plan, deliver and maintain quality infrastructure to make Auckland liveable and resilient, through the control on the location of the election signs.*

17. The proposed amendments will discourage the proliferation of signs on public land and ensure safety and amenity values are retained.

### **Issues and Option analysis**

18. Auckland Transport has two options to consider for each issue. It may either decide to retain the status quo (“do nothing”) or it may amend the bylaw. Retaining the status quo for the technical and operational policy changes recognises that the identified issues are minor and may be addressed through education and the raising of awareness of candidates without amending the bylaw. This option avoids the costs and administrative burden (for the council, Auckland Transport and those submitting on the proposal) associated with amending the bylaw. However, under this option the electoral officer will be required to develop and distribute education material to candidates on the interpretation of the bylaw for each election, which costs will exceed the costs of amending the bylaw over time. Members of the public who may have an interest in the measures in the bylaw will have to obtain the education material on enquiry.
19. The alternative is to amend the bylaw to deal with the issues that have been identified. Every election provides its own challenges as well as an opportunity to determine the efficiency of current and newly made provisions. Each election provides an opportunity to refine the provisions and to update the bylaw to reflect the latest requirements and developments. By ensuring the bylaw is updated all stakeholders, including the electoral officer and administrative staff are guided by clear and consistent rules.
20. Auckland Transport prefers to amend the bylaw.

#### **Issue 1 – Explanatory notes**

21. During the October 2013 the electoral officer and staff were repeatedly requested to provide advice or to intervene during disputes on the interpretation of the various provisions of the bylaw. Legacy bylaws regulated election signage issues differently in each legacy area and a common understanding of the new bylaw was still to develop. The large number of contested seats that included wards, local boards and district health boards and the short duration of the election period contributed to the challenges faced by the administrative staff to ensure the bylaw was administered with equity. The forthcoming general election provides a reason and an opportunity to address this issue.
22. The review of the bylaw provides an opportunity to amend the bylaw to expressly allow for the inclusion of explanatory notes in the published bylaw without these being seen as part of the bylaw or needing to follow the special consultative procedure to incorporate them. Inserting explanatory notes in the bylaw enables Auckland Transport to provide guidance on the interpretation of the bylaw in a single document that is accessible by all interested persons, including the public.

23. Auckland Transport proposes the insertion of a new clause 5(6) of the bylaw as set out in the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 (Attachment 1) to enable the inclusion of explanatory notes in the bylaw.
24. While this statement of proposal does not include any proposed explanatory notes that Auckland Transport will insert upon adoption of the proposed amendment, proposed explanatory notes have been included in the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 for information.

### **Issue 2 – Temporary closure of public sites**

25. Sites on public land that have been specified by Auckland Transport for the display of election signs occasionally become temporarily unsuitable, for example due to construction work. Election signs have nevertheless been displayed on these sites, causing conflict between candidates and contractors.
26. While the issue may be addressed through mediation in cases of conflict, the conflict may have been avoided if the stakeholders are aware that the public site is temporarily unavailable although it may still be specified as an available site. This may cause confusion and unnecessary expense and effort by candidates. In addition, Auckland Transport may make changes to the controls that specify public sites by removing the site from the list of available sites. As these sites have been identified with the assistance of the local boards, it will require consultation with the stakeholders (including the local boards) through a process that does not justify closure of the site for a limited time. Enabling administrative staff to close a site temporarily to enable construction activities ensures efficiency and avoids potential conflict.
27. Auckland Transport proposes the insertion of a new clause 6(1) of the bylaw as set out in the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 (Attachment 1).

### **Issue 3: Period for use of private property to display signs**

28. While the current provisions of the bylaw only allows for the display of election signs on specified public sites during the regulated period of nine weeks before the election, the restriction does not apply to sites on private land. Consequently election signs may be displayed on private sites before they may be displayed on public sites, leading to confusion and unnecessary visual distraction.
29. Auckland Transport proposes to delete clause 8(1)(k) of the bylaw that regulates the duration of display of election signs on public sites and insert a similarly worded clause as clause 7(1)(aa) that provides controls for all election signs. Clause 7 of the bylaw covers both private and public sites so including the provision here will ensure that election signs on public and private sites will only be allowed to be displayed for the same time.

#### **Issue 4: Size of signs and position within the site**

30. While the bylaw prescribes the maximum size of election signs on both public and private sites it only imposes a height limit on public sites and does not contain a minimum size for election signs. The lack of a height limit has resulted in overly high signs being displayed on private property that causes unnecessary harm to visual amenity of the neighbourhood.
31. Auckland Transport proposes to insert a new clause 9(1)(c), worded similarly to clause 8(1)(f) that regulates signs on public sites, to ensure that the height and clearance of election signs on private sites meet the same requirements as those of public sites.
32. In addition, the display of undersized signs on designated public sites cause pollution and littering as the signs are not always adequately secured and are prone to becoming dislodged during the election period. The small size of these undersized signs also divert the attention of the drivers of vehicles, causing potential risk to public safety.
33. Auckland Transport proposes the inclusion of a new clause 8(1)(aa) as set out in the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 (Attachment 1) that prescribes the minimum size for an election sign. The minimum size is 0.25m<sup>2</sup>, which is the same as an A2 paper size, to ensure that the costs of the material required to produce a sign is affordable. The larger signs require frameworks to ensure proper display, ensuring the signs are securely affixed to the sites. This will prevent the easy dislodgement of the signs and contribute to the avoidance of litter. It also ensures the signs are visible and do not provide excessive distraction to passing motorists.
34. To ensure maximum or optimum use of the site by candidates, election signs displayed on specified sites occasionally protrude from the boundaries of the site. This may affect the visual amenity of the area, be a distraction to passing motorists or cause danger to passers-by.
35. Auckland Transport proposes the insertion of appropriate words in clause 8(1)(a) of the bylaw to ensure that election signs are displayed within the boundaries of the public sites.

#### **Issue 5: Number of team and individual signs on a public site**

36. The bylaw provides that only one sign promoting a candidate may be displayed on a specified public site. A person may stand as a candidate in more than one capacity in a local government election, for example as Mayor, ward councillor, and/or as local board member and/or as district health board member. This entitles the candidate to display up to four signs on a public site. For general elections an additional sign may be displayed to promote voting for a political party. Provision is made for political parties due to the mixed member proportional

system (MMP) used in New Zealand for general representation. Similar provision has not been made for local government elections as the election system does not provide for party votes.

37. However, a developing aspect of local government elections in Auckland is the emerging association of candidates aligned to the same causes or organised in interest groups. Signs containing the particulars of a number of such candidates have become a feature of the local government elections. During the local government election in October 2013 the requirement of displaying one sign per candidate per site and the display of “team” signs on that site in addition to candidate signs caused confusion. Numerous candidates displayed a sign with themselves as sole candidate and a second sign with themselves as part of a team of associated candidates or displayed other members of their team in a smaller capacity on their sign (whilst also appearing in the smaller capacity on the sign of each of their team members).
38. While Auckland Transport proposes the retention of the requirement that each candidate in a local government election may only display a single election sign on a public site, it is appropriate to assess whether the bylaw should accommodate emerging trends and consequently proposes an amendment of clause 8(1) by rewording clause 8(1)(b) that allows a candidate to appear with other candidates on signs on public sites in addition to the existing requirement. This will enable a candidate to appear as sole candidate on one sign and in association with other candidates on a second sign.

#### **Issue 6: Signs promoting election issues**

39. Although the bylaw provides for signage relating to referenda and for signs promoting causes that are not related to a particular candidate as election signs, no further provision is made in the bylaw for the regulation of such signage.
40. During the October 2013 local government election signs appeared that were not endorsed or provided by particular candidates but that were displayed by community groups that were concerned about particular issues and attempted to persuade voters in a particular manner. Typically these signs encouraged voters to “vote local” or to protect community assets without endorsing specific candidates. Similar signs displayed by local candidates are already restricted to one sign per candidate per public site as provided for by clause 8(1)(b).
41. Auckland Transport proposes to insert a new clause 8(1)(ba) that allows a person that is not a candidate or that is not endorsing a specific candidate in an election to display one election sign promoting an issue per public site. This will enable other persons who may also support or that may oppose any specific issue to display similar signs, provided the signs meet all the applicable legal requirements. This provision would also limit a person wishing to promote a particular response to a referenda to a single sign, whilst not preventing other persons with the same view from erecting a sign.

### **Issue 7: Legibility of the contact details of the person responsible for the sign**

42. The bylaw requires that each sign must clearly display the name and contact details of the person responsible for the sign. This ensures that if any issues arise in relation to the sign there is a clear contact person who can be called by compliance staff to correct the situation. During the local government election of October 2013 it was often found that whilst these contact details may have been clearly present they were not always able to be easily read by the compliance staff and they therefore were not as effective as intended.
43. Auckland Transport proposes an amendment to clause 7(1)(e) to require that the name and contact details on each election sign be legible from a distance of 1 metre.

### **Issue 8: Simplification of provisions**

44. Lastly, the review of the bylaw also provides an opportunity to review the drafting of provisions and simplify provisions or update references to comply with recent statutory amendments.
45. Auckland Transport proposes the following amendments to the bylaw:
- Redrafting clause 5(2) to remove double negatives in the wording of the clause;
  - Combining clauses 7(1)(k) and (l) in a single simplified clause to regulate the illumination of election signs;
  - Redrafting clause 8(1)(c) to clarify that a single election may consist of a single-sided panel, or a double-sided panel, or two panels displayed back to back provided its size does not exceed 3m<sup>2</sup>;
  - Redrafting clause 8(1)(h) to avoid possible confusion as to understanding of the concept of the dripline of a tree;
  - Redrafting clause 9(1)(b) to avoid possible confusion that election signs may only be displayed on private sites on fences adjoin a public place;.
  - Delete “summary” in the reference in clause 11 from “summary conviction” in accordance with changes to the legislation.

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

46. As a road controlling authority, Auckland Transport is authorised to make a bylaw regulating the display of signs on roads or visible from roads and the bylaw is consistent with the purpose of Auckland Transport in section 39 of Local Government (Auckland Council) Act 2009 to contribute to an effective and efficient transport system to support Auckland’s social, economic, environmental and cultural well-being.
47. Consideration was given as to whether the types of controls in the bylaw would give rise to any implications in terms of this Act and in particular whether the

controls place unreasonable limits on the right to freedom of expression. The controls included in the bylaw are considered reasonable restrictions which are fair to all candidates, and will minimise adverse impacts on road safety and amenity values and ensure the mandate and purpose of Auckland Transport are appropriately delivered.

## **Proposal**

48. Auckland Transport proposes the amendment of the bylaw with the making of the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014 (Attachment 1) that sets out the proposed amendments to the bylaw. A copy of the Auckland Transport Election Signs Bylaw 2013 (as proposed to be amended) is attached as Attachment 2.





# **Auckland Transport Election Signs Amendment (No 2) Bylaw 2014**

*Te Ture a Rohe mo nga Tohu Pānui Pōti a Auckland Transport 2013*

**Auckland Transport Board Meeting xx June 2014**

*Explanatory Note*

*This bylaw is made pursuant to section 22AB of the Land Transport Act 1998 to amend the Auckland Transport Election Sign Bylaw 2013 in time for the September 2014 parliamentary election. This explanatory note is for information purposes only and does not form part of the bylaw.*

## **1 Title**

This bylaw is the Auckland Transport Election Signs (Amendment No 2) Bylaw 2014.

## **2 Commencement**

This bylaw, which amends the Auckland Transport Election Signs Bylaw 2013, comes into force on (date) June 2014.

## **3 Amendments**

(1) This bylaw amends the Auckland Transport Election Signs Bylaw 2013 as follows.

(2) Replace clause 5(2) with:

“(2) The following are not election signs for the purposes of this bylaw—

(a) an advertisement which is specified as not being an election advertisement under section 3A(2) of the Electoral Act 1993; or

(b) the advertisements described in regulation 3(c)(i) and (ii) of the Electoral (Advertisements of a Specified Kind) Regulations 2005.”

(3) After clause 5(5), insert:

“(6) Any explanatory notes or attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without any formal process.”

(4) After clause 6(4), insert:

“(5) If a site specified under clause 6(2) is assessed by Auckland Transport as temporarily unsuitable for the display of an election sign, it may disallow the display of election signs on that site.”

(5) Before clause 7(1)(a), insert:

“(aa) election signs may only be displayed during the period commencing on the Saturday that is nine weeks before the election day and ending at midnight on the day before the election day.”

(6) Replace clause 7(1)(e) with:

“(e) the name and contact details (including a telephone number) of the person responsible for establishing and maintaining the election sign who can be contacted to repair, secure or otherwise take action in relation to the display of the election sign must clearly be displayed on elections signs and must be able to be read from a distance of at least 1m;”

(7) Replace clause 7(1)(k) with:

“(k) election signs, other than on commercial billboards, must not be internally illuminated by any means and must not be externally illuminated by artificial lighting designed specifically to illuminate the election sign;”

(8) Delete clause 7(1)(l).

(9) Replace clause 8(1)(a) with:

“(a) election signs must be free-standing on their own dedicated structure within the boundaries of the site and must not be attached to any other election sign, building, tree, litter bin, street furniture, traffic control device, bus shelter, public toilet, power pole, light pole or telephone pole, post or other structure of any kind, other than on the front face of a fence separating a public place from a private site specified in clause 9(1)(b);”

(10) After clause 8(1)(a), insert:

“(aa) election signs displayed on sites specified under clause 6(1)(a) must not be smaller than 0.25m<sup>2</sup> (A2 paper size);”

(11) Replace clause 8(1)(b) with:

- “(b) on any specified site, a person standing as a candidate may only be displayed on—
- i. one sign that promotes them as a candidate for each elected position being stood for; and
  - ii. one sign that shows their association with another candidate or candidates.”

(12) After clause 8(1)(b), insert:

- “(ba) on any specified site, a person may only display one sign (that does not promote a specific candidate or party) that encourages or persuades (or appears to encourage or persuade) voters to vote in a particular way on a referendum or election;”

(13) Replace clause 8(1)(c) with:

- “(c) on any specified site, in a general election, a party may only display one election sign promoting that party;”

(14) Replace clause 8(1)(d) with:

- “(d) a single election sign may consist of any or all of the following so long as the combined surface area of any side does not exceed 3m<sup>2</sup> —
- i. a single-sided panel;
  - ii. a double-sided panel; or
  - iii. two panels displayed back to back.”

(15) Replace clause 8(1)(h) with:

- “(h) election signs must not be displayed directly under any part of a tree;”

(16) Delete clause 8(1)(k).

(17) Replace clause 9(1)(b) with:

“(b) an election sign may only be affixed to the front face of a fence between private property and a public place if it is flat against the surface area of the fence and does not protrude from it;”

(18) After clause 9(1)(b), insert:

“(c) the top edge of a free-standing election sign must not exceed 3m from ground level and the bottom edge must not be less than 500mm from ground level.”

(19) In clause 11, delete “summary”.

### **Explanatory notes**

The following explanatory notes will be displayed within the bylaw.

After clause 7(1)(k):

*“Note: Election signs on billboards that are not available for hire or reward that are located on private or public sites have to also comply with signage bylaws, the district plans and the unitary plan.”*

After clause 12(1)(c):

*“Note: For the avoidance of doubt, the revocation of Part 12 (Control of Temporary Signs) of the North Shore City Bylaw 2000 does not include revocation of clause 12.5.2 that regulates the display of signs relating to political meetings. Signage for political meetings also must comply with the district plans, the unitary plan and the bylaws in Auckland regulating signage for events.”*

# **Auckland Transport Election Signs Bylaw 2013**

*Te Ture a Rohe mo nga Tohu Pānui Pōti a Auckland Transport 2013*

**Auckland Transport Board Meeting 30 May 2013**

*(amended with effect from 12 August 2013 by the Auckland Transport Election Signs  
Amendment Bylaw No 1 of 2013)*

*(amended with effect from xx xxxx 2014 by the Auckland Transport Election Signs  
(Amendment No 2) Bylaw 2014)*

## *Explanatory Note*

*This bylaw is made pursuant to section 22AB of the Land Transport Act 1998, allows Auckland Transport to provide for the display of election signs that are on or visible from roads that are under the care, control or management of Auckland Transport. This bylaw revokes and replaces provisions of bylaws made by the previous local authorities of Auckland.*

*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 Election Signs Bylaw 2013.

**2 Commencement**

This bylaw comes into force on 8 June 2013.

**3 Application**

This bylaw applies to election signs on sites that are on or visible from roads under the care, control or management of Auckland Transport (which includes roads, public places and private property).

**Part 1**

**Preliminary provisions**

**4 Purpose**

The purpose of this bylaw is to regulate the display of election signs on or visible from roads under the care, control or management of Auckland Transport and to enable Auckland Transport to specify—

- (a) the public sites where election signs may be displayed; and
- (b) controls for the display of election signs.

**5 Interpretation**

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



**commercial billboard** means a permanently erected structure available for hire or reward that is designed and used for the display of advertisements and includes a large passenger service vehicle so used.

**election** means an election under the Electoral Act 1993 or the Local Electoral Act 2001 and elections for the Auckland Energy Consumer Trust.

**election day** means the day on which the voting period for an election ends.

**election sign** means a sign or any part of a sign (including the frame and supporting structure) for a public referendum, election, or by-election, that encourages or persuades or appears to encourage or persuade voters to vote for a party or a person standing as a candidate or to vote in a particular way on a referendum or election.

**private site** means a site other than a public place.

**public place** means an area that is open to or used by the public, that is visible from a road and that is under the control of the Auckland Council, or one of its Council Controlled Organisations.

**reflective material** means any material or surface that tends to reflect a beam of light parallel to the path of the beam and in an opposite direction to that path.

**road** has the meaning given by the Local Government Act 1974.

**roadway** means that portion of the road used or reasonably usable for the time being for vehicular traffic in general.

**traffic control device** has the same meaning given by the Land Transport Rule 54002: Traffic Control Devices 2004.

**unitary plan** means the Auckland Council combined resource management plan.

**vehicle** has the meaning given by the Land Transport Act 1998.

**vehicle crossing** means a formed access for vehicles to enter or leave private land from or to a roadway.

- (2) The following are not election signs for the purposes of this bylaw
- (a) an advertisement which is specified as not being an election advertisement under section 3A(2) of the Electoral Act 1993; or
- (b) an advertisement described in regulation 3(c)(i) and (ii) of the Electoral (Advertisements of a Specified Kind) Regulations 2005.
- (3) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable legislation including Acts, regulations, bylaws and district plan or Unitary Plan rules.
- (4) Any words, phrases or expressions not defined in this bylaw have the same meaning given in the Land Transport Act 1998 or the Electoral Act 1993 or the Local Electoral Act 2001.
- (5) The Interpretation Act 1999 applies to this bylaw.
- (6) Any explanatory notes or attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without any formal process.

## **Part 2**

### **Display of election signs**

#### **6 Location of Election Signs**

- (1) A person must not display an election sign on or visible from a road under the care, control or management of Auckland Transport unless it is—
- (a) on a site on a public place that is specified by Auckland Transport as suitable for the display of election signs;
- (b) on a private site; or
- (c) on a vehicle provided that the movement of the vehicle or the position of a stationary vehicle in combination with the sign does not—

- (i) compromise the safe and efficient operation of the road in any way; or
  - (ii) create a nuisance where the use of a road unreasonably interferes with other road users; or
  - (iii) breach any of the provisions of this bylaw; and
  - (iv) in the case of a trailer, remain parked on any road for a period longer than 4 hours.
- (2) Subject to clause 6(3) Auckland Transport may specify by resolution, sites that are suitable for the display of election signs under clauses 6(1)(a).
- (3) Prior to specifying a site as suitable for the display of election signs Auckland Transport must—
- (a) obtain approval for any site located within a local park from the local board allocated responsibility for that local park; and
  - (b) take into consideration any comments made by a local board responsible for the area on any proposed site that is not in a local park.
- (4) Any person may propose a site on a public place for Auckland Transport to consider its suitability for the display of election signs.
- (5) If a site specified under clause 6(2) is assessed by Auckland Transport as temporarily unsuitable for the display of an election sign, it may disallow the display of election signs on that site.

## **7 Controls for all election signs**

- (1) A person who displays an election sign must comply with the following controls—
- (aa) election signs may only be displayed during the period commencing on the Saturday that is nine weeks before the election day and ending at midnight on the day before the election day.

- (a) election signs must be removed before midnight on the day before election day;
- (b) election signs must not be displayed on election day;
- (c) election signs must not exceed 3m<sup>2</sup> in area except for signs on commercial billboards which may exceed 3m<sup>2</sup>;
- (d) election signs must not be displayed in a way that endangers public safety;
- (e) the name and contact details (including a telephone number) of the person responsible for establishing and maintaining the election sign who can be contacted to repair, secure or otherwise take action in relation to the display of the election sign must clearly be displayed on elections signs and must be able to be read from a distance of at least 1m;
- (f) election signs and their supporting structures must be securely braced and anchored, and constructed, fixed or displayed in a manner so that they will not come loose under normal weather conditions;
- (g) election signs must not obstruct the safe line of sight of any pedestrian crossing, corner, bend, intersection, vehicle crossing or private entrance, nor obscure any traffic control device;
- (h) election signs must not be displayed on roadways other than on a vehicle covered by clause 6(1)(c);
- (i) election signs must not be displayed on footpaths, road medians, roundabouts, traffic islands or any other traffic separation structure or kerbed projection;
- (j) election signs must not be made of, or have affixed, any reflective material that is likely to reflect the light from the headlights of any approaching vehicle;

- (k) election signs, other than on commercial billboards, must not be internally illuminated by any means and must not be externally illuminated by artificial lighting designed specifically to illuminate the election sign;

*Note: Election signs on billboards that are not available for hire or reward, located on private or public sites, must also comply with signage bylaws, the district plans and the unitary plan.*

- (l) *Revoked by Auckland Transport Election Signs (Amendment No 2) Bylaw 2014;*
- (m) election signs must not be animated;
- (n) election signs must not be similar to or the same as any traffic control device in its shape and colour, and liable to be mistaken for a traffic control device;
- (o) election signs must not display flashing, revolving or changeable information or images;
- (p) election signs must not have affixed to it, any moveable part or light that is intended to draw attention to the election sign;
- (q) posters, pamphlets, flags or other material must not be attached to election signs other than material that is securely affixed within the surface area of the sign panel under the authority of the person responsible for that sign;

## **8 Election sign controls for specified sites on public places**

- (1) Any person who displays an election sign on a site specified in accordance with clause 6(2) must comply with the controls in clause 7 and must also comply with the following controls—
  - (a) election signs must be free-standing on their own dedicated structure within the boundaries of the site and must not be attached to any other election sign, building, tree, litter bin, street furniture, traffic control device, bus shelter, public toilet, power pole, light pole or telephone pole, post or

other structure of any kind, other than on the front face of a fence separating a public place from a private site specified in clause 9(1)(b);

(aa) election signs displayed on sites specified under clause 6(1)(a) must not be smaller than 0.25m<sup>2</sup> (A2 paper size);

(b) on any specified site, a person standing as a candidate may only be displayed on—

- i. one sign that promotes them as a candidate for each elected position being stood for; and
- ii. one sign that shows their association with another candidate or candidates.

(ba) on any specified site, a person may only display one sign (that does not promote a specific candidate or party) that encourages or persuades (or appears to encourage or persuade) voters to vote in a particular way on a referendum or election;

(c) on any specified site, in a general election, a party may only display one election sign promoting that party;”

(d) a single election sign may consist of any or all of the following so long as the combined surface area of any side does not exceed 3m<sup>2</sup> —

- i. a single-sided panel;
- ii. a double-sided panel; or
- iii. two panels displayed back to back.

(e) a single election sign consisting of two panels (or four if back to back) attached at one edge to the same post in a V-shape may be displayed on larger sites that are specified by resolution under clause 6(2) as suitable for this configuration if the widest point of the V is not more than 2m;

(f) the top edge of an election sign must not exceed 3m from ground level and the bottom edge must not be less than 500mm from ground level;

- (g) election signs must be set back at least 500mm from a footpath, cycle path, vehicle crossing or roadway other than on the front face of a fence separating a public place from a private site as specified in clause 9(1)(b);
  - (h) election signs must not be displayed directly under any part of a tree;
  - (i) election signs must not be displayed on sites that are recorded or scheduled as cultural or heritage sites or that are geological or archaeological features identified in the relevant district plans or unitary plan;
  - (j) no alterations or additions may be made to an election sign that protrude from the original size of the sign;
  - (k) *Revoked by Auckland Transport Election Signs (Amendment No 2) Bylaw 2014.*
  - (l) election signs must be maintained in good order and condition;
  - (m) the person responsible for an election sign must restore the site to the condition it was in before the election sign was displayed.
- (2) Auckland Transport may by resolution make additional controls for the display of election signs on particular sites.

## **9 Election sign controls on private sites**

- (1) A person who displays an election sign on a private site visible from a road must comply with the controls in clause 7 and must also comply with the following controls—
- (a) the consent of the occupier, or if an occupier cannot be located the consent of the owner of the private site must be obtained for the display of an election sign;
  - (b) an election signs may only be affixed to the front face of a fence between private property and a public place if it is flat against the surface area of the fence and does not protrude from it;

- (c) the top edge of a free-standing election sign must not exceed 3m from ground level and the bottom edge must not be less than 500mm from ground level.

### **Part 3**

#### **Enforcement powers, offences and penalties**

##### **10 Enforcement**

Auckland Transport may use its powers under the Local Government Act 2002 to enforce this bylaw, including the power to—

- (a) remove or alter an election sign, if the sign is damaged or is not in good order or condition or is otherwise in breach of this bylaw and to recover any reasonable costs;
- (b) recover reasonable costs to restore a site if the site is not restored by the person who displays an election sign to the condition it was before the sign was displayed.

##### **11 Offences and penalties**

A person who fails to comply with clause 6, 7, 8 or 9 commits a breach of this bylaw and is liable on conviction to a fine not exceeding \$500.

### **Part 4**

#### **Revocation**

##### **12 Revocation of provisions in existing bylaws**

- (1) The provisions in the following bylaws, are revoked to the extent that they relate to election signs that are on or visible from roads that are under the care, control or management of Auckland Transport—



- (a) Auckland City Council Signs Bylaw 2007;
  - (b) Chapter 19 (Temporary Signs) of the Manukau City Consolidated Bylaw 2008;
  - (c) Part 12 (Control of Temporary Signs) of the North Shore City Bylaw 2000;  
  
*Note: For the avoidance of doubt, the revocation of Part 12 (Control of Temporary Signs) of the North Shore City Bylaw 2000 does not include revocation of clause 12.5.2 that regulates the display of signs relating to political meetings. Signage for political meetings also must comply with the district plans, the unitary plan and the bylaws in Auckland regulating signage for events.*
  - (d) Chapter 22 (Temporary Signs) of the Rodney District Council General Bylaw 1998;
  - (e) Franklin District Council Control of Signs Bylaw 2007;
  - (f) Papakura District Council Control of Advertising Signs Bylaw 2008.
- (2) Any schedules, resolutions, approvals, permits or other acts of authority made pursuant to the bylaws referred to in clause 12(1) relating to election signs that are on or visible from roads that are under the care, control or management of Auckland Transport are revoked.