

# Proposed Auckland Transport Election Signs Bylaw 2013 Consultation

## Glossary

Auckland Council	(AC)
Auckland Transport	(AT)
Land Transport Act 1998	(LTA98)
Local Government (Auckland Council) Act 2009	(LGACA)
Local Government Official Information and Meetings Act 1987	(LGOIMA)
Road Controlling Authority	(RCA)
Special Consultative Procedure	(SCP)
Statement of Proposal	(SOP)
Traffic Control Committee	(TCC)

## Executive Summary

This report seeks AT Board's approval to undertake public consultation on a proposed bylaw to regulate the display of election signs across the region. Approval of the AT Board for the SOP and draft bylaw is required due to the use of the SCP for this bylaw. The SOP in Attachment 1 to this report outlines the details of the issues identified, the options considered and the recommended approach to the administration of the bylaw.

The objective of the proposed election signs bylaw 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 for the display of election signs across all of Auckland for parliamentary and local authority elections. Currently the controls in relation to the display of election signs are contained in five legacy bylaws (Manukau, Rodney, North Shore, Auckland City and Papakura), while two Legacy Councils (Waitakere and Franklin) have used district plan rules to control election signs in the area under their former jurisdiction. As a result the measures that regulate the display of election signs vary across the region. These inconsistent measures cause confusion and uncertainty for candidates, political parties and the public, and they will remain operative until they are changed. The proposed bylaw will revoke the clauses in these legacy bylaws to the extent that they relate to the control of election signs. Provisions that relate to general signs are not covered in this bylaw and will remain operative as they are the subject of another joint review process between AC and AT (to be undertaken later)

It is suggested that an election signs bylaw is the most effective way to provide a consistent set of controls across the region. With some exceptions, the controls in the proposed bylaw will be similar to what is in the legacy bylaws. The proposed bylaw sets out provisions to regulate election signs to be displayed on specified sites determined by AT, on vehicles and on private sites. The proposed bylaw provides for election sign sites on roads and other public places to be specified by resolution rather than the bylaw containing a list of sites in a schedule to the bylaw. This use of the resolution process will allow for flexibility to have additional sites added (or if necessary sites removed from the list) without the need to modify the bylaw.

The proposed bylaw will enable a fairer approach for candidates who, without the provisions of a new bylaw, must adhere to the provisions under the existing bylaws or district plans that do not reflect the changes in the region since the amalgamation of the Legacy Councils.

To inform the drafting of the bylaw, initial consultation was undertaken with Local Board cluster workshops and a working party of the Regulatory and Bylaws Committee of AC during October 2012. Feedback from the Local Boards and the working party has been used to help develop the draft bylaw. Members of the AC Policies and Bylaws team that will be working on the joint project for the general signs bylaw have also assisted with the development of the proposed bylaw. Additionally a meeting was held with AC enforcement officers from across the region to discuss any potential issues that might arise from the enforcement of the bylaw.

## Recommendations

It is recommended that the Board:

- i). Receives this report
- ii). Approves the decision to follow the SCP process for the Election Signs Bylaw
- iii). Approves the commencement of public consultation on the attached Statement of Proposal and Draft Bylaws
- iv). Authorises the Chief Executive to make any minor edits or amendments to the Statement of Proposal or Draft Bylaw prior to consultation to correct any identified errors

## Strategic and Legal Context

Election signs are subject to the provisions of LTA98, the Electoral Act 1993 and the Electoral (Advertisements of a Specified Kind) Regulations 2005. AT has statutory power as an RCA to make bylaws under the LTA98 and, under section 46 of LGACA, AT is also able to utilise the bylaw making powers of a local authority whilst not actually being one for the purposes of that Act. In particular section 22AB(1)(y) of the LTA98 allows AT to pass bylaws that control signs that are on, or are visible from, the Auckland transport system. This includes election signs. As the purpose of election signs is to draw attention to the candidates to generate more votes, they will generally be placed on locations visible from the Auckland transport system.

Section 22AD of the LTA98 requires AT to give written notice of its intention to make this bylaw to specified persons and give them a reasonable time to give written submissions on the proposal. As AT is not a local authority as defined in the LTA98, it is not required by the Act to undertake the more exacting SCP process when making a bylaw as stated under Section 22AD(1). However, on balance, it is recommended that the SCP be used in addition to required consultation as it is best practice consultation in the Local Government sphere, it may be seen to be more transparent, and to avoid the possibility of any legal challenge arising from not choosing to use that process. This is the approach that was undertaken with the Traffic and Speed Limits Bylaws. The first step in the SCP is for the Board to approve the SOP and give approval for the commencement of the consultation.

In addition to the statutory obligation to review and make a bylaw for signs on or visible from roads in the Auckland transport system, AT 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 bylaw provides 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 bylaw will discourage proliferation of signs and to ensure safety and amenity values are retained.

## Contents of the Draft Bylaw

A copy of the proposed bylaw is contained in Attachment 2. The section below provides a brief description of the proposed controls in the bylaw.

### Election Signs Bylaw

The bylaw will allow for election signs to be displayed on specified public sites visible from the road, private sites and on vehicles (so long as the vehicle is being used for some ordinary purpose and not just to display the sign). The main purpose of the bylaw is to ensure that safety issues are considered and amenity values are retained when candidates erect election signs.

In accordance with national legislation, the bylaw allows for the display of election signs contrary to any other controls on signs for the two months prior to election day and specifies that they cannot be made of reflective or illuminated material whether internally or externally.

The bylaw contains controls that apply to all election signs on public sites, private sites or vehicles. Election signs must not be displayed in a manner that endangers public safety; must not exceed three square metres in area; must be securely braced and anchored so they do not come loose; must not obstruct the safe line of sight of any pedestrian crossing, corner, bend, intersection or vehicle crossing; must not be animated; must not be on footpaths, traffic separation structures or kerbed projection such as road medians and footpaths; and posters pamphlets and flags or other material cannot be attached to the election signs.

In addition to the controls for election signs on all sites, election signs on specified sites on public places must not be displayed on street furniture; are required to be free standing; must be no more than three metres from ground level from the top edge and have a clearance of 500mm of the bottom edge from the ground; must have a setback of at least 500mm from a footpath, cycle path, vehicle crossing or roadway.

Election signs in public sites cannot be displayed under the drip line of trees and on areas of geological or archaeological features. No alterations may be made to an election sign that protrudes from the original size of the sign.

The bylaw allows for one election sign per candidate on a specified site if it is a local election, or no more than one election sign for the candidate and one election sign for the political party if it is a parliamentary election. The election sign may be a single or double-sided panel or two panels displayed back to back. V-shape signs are restricted to being displayed on sites determined by AT as being large enough for this configuration. The person responsible for the display of the sign must display their contact details on the sign and is also responsible for the condition of the sign and must restore the site to the condition it was in prior to the display of the sign.

In addition to the controls that all signs have to comply with, signs on private sites requires the permission of the occupier, or if the occupier cannot be located, the consent of the owner. If an election sign is proposed to be located on a fence on a road frontage, it must fit within the surface area of the fence.

The specified sites will be determined through the resolution process but will not be included as a list or schedule as part of the bylaw. Suitable sites that fit the criteria in the bylaw have been identified in most areas of Auckland. These include existing sites that have been used for that purpose that were included in some legacy bylaws, sites commonly used for that purpose but that were not formalised, as well as a number of new sites in areas where there were previously no specified sites. It is proposed that if the Board approves the consultation on the SOP, this list of possible election sign sites (broken down by Local Board area) be made available on the AT website during consultation on the bylaw. Comments received on the list of possible election sign sites will not be treated as submissions on the bylaw itself but will be considered before any resolutions are passed. The powers to make resolutions under bylaws are currently delegated to the TCC. It is proposed that the AT Board considers whether the approval of the specified sites is delegated to the TCC.

## Development Process

The draft bylaw has been prepared by AT's in-house bylaws drafting specialists following a detailed review of the national legislation, the bylaws of the Legacy Councils of Auckland and bylaws of other New Zealand local authorities.

AC is not making a corresponding Election Signs Bylaw as there are unlikely to be places where election signs would be erected that fall within AC's area of bylaws jurisdiction. Election signs will generally only be placed where visible from the road so as to have maximum impact. AC bylaws staff members have however provided assistance with this review. In particular, by helping to organise workshops with Local Board members and the AC's Regulatory and Bylaws Committee members.

The draft bylaw and SOP have undergone an external legal review by Kensington Swan to confirm the appropriateness of the drafting and content of the bylaw, the options considered in the SOP and the interaction of the bylaw with district plan rules. Minor changes were made to the drafting of the bylaw as a result of this advice but no major concerns were identified.

## Next Steps

### Consultation

If the Board approves the SOP for public consultation during February 2013 advance notice of this will be provided to major stakeholders, (including AC, Local Boards, Maori, political parties, the AA and the Road Transport Forum).

Notified public consultation on the proposed bylaw will be undertaken during February 2013.

Written submissions on the proposed bylaw will be analysed during March 2013 and a decision made as to whether a separate public meeting needs to be held to hear any oral submissions or whether these can be heard at the Board meeting when the final proposal will be considered.

### Making the Bylaw

It is anticipated that the final version of the proposed bylaw will be presented to the Board for consideration during April or May 2013.

### Notify the Minister of the Bylaw

As this bylaw is made under the LTA98 the Minister of Transport will need to be notified within one week of a bylaw being made. The Minister has the power to amend, replace or disallow a bylaw that is inconsistent with any enactment or is unreasonable or undesirable in so far as it relates to traffic. There is no reason to believe that any such concerns would arise in relation to the proposed bylaw.

### Public Notice of the Bylaw

If the bylaw is made a public notice will be published that will confirm the date the bylaw comes into effect; which is expected to be in May or June 2013.

### Resolution putting in place public election signs sites

If the bylaw is made then resolutions specifying public sites for elections signs will then need to be passed by the Board or some other entity delegated by the Board to do this for it.

## Attachments

#### Attachment 1 – Statement of Proposal

*The main consultation document required as part of an SCP process. The SOP sets out the details of the consultation; the reasons for making the bylaw; the options considered; information on how notice is given of the bylaw and how the public can make submissions; as well as a clause by clause summary of the proposed bylaw. It is a requirement of the SCP process that the SOP be included on an agenda of a public meeting of the AT Board of Directors*

#### Attachment 2 – Draft Auckland Transport Election Signs Bylaw 2013

*Draft bylaw that will accompany the Statement of Proposal for the consultation with key stakeholders and the public.*

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## PROPOSED AUCKLAND TRANSPORT ELECTION SIGNS BYLAW 2013 STATEMENT OF PROPOSAL

### 1. Introduction

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. The Electoral Act 1993 allows for election signs up to three square metres in size to be put up in the two months **before** election day. The signs must be removed before election day. The contents of election signs are not subject to controls in a bylaw but a bylaw may determine the sites where signs can be displayed and place controls on the physical construction of signs. Elections that are not covered under the Local Electoral Act and Electoral Act 1993 such as elections for the Auckland Energy Consumer Trust, elections for the school boards and tertiary institutions, are not covered by this bylaw.

The next local elections will be held on 12 October 2013. It is expected that candidates will erect election signs at the commencement of the two month display period on 11 August 2013 at sites approved under a bylaw.

Various measures such as bylaws and district plan provisions determined the approved location of election sign sites throughout the legacy councils that existed before the establishment of Auckland Council and Auckland Transport on 1 November 2010. In certain areas of Auckland the display of election signs on public places (including roads) is a permitted activity that requires no approval as long as certain standards are met, while in other areas the display of election signs on public places is prohibited. These inconsistent measures cause confusion and uncertainty for candidates, political parties and the public, but they remain operative until they are changed.

The legislation establishing Auckland Council and its Council Controlled Organisations empowers Auckland Transport to make bylaws for the display of signs, including election signs. Bylaws relating to signs may cover signs on roads and also signs on any public or private land that are visible from roads.

For the sake of public safety and convenience Auckland Transport wishes to provide for a consistent set of controls for election signs and an integrated system of determining the sites on public places for the display of election signs across all of Auckland for parliamentary and local authority elections.

Section 22AD of the Land Transport Act 1998 requires Auckland Transport to give written notice of its intention to make a bylaw to specified persons and give a reasonable time to enable them to give written submissions on the proposal.

In addition to complying with these legal obligations, Auckland Transport is also choosing to comply with the requirements specified for bylaw-making by using the special consultative procedure under the Local Government Act 2002 that gives interested persons an opportunity to make submissions and be heard at a public hearing.

This statement of proposal outlines the issues and the options that Auckland Transport has considered; the reasons why Auckland Transport has determined that a bylaw to regulate election signs is appropriate and the issues that are to be regulated.

## **2. Reason for the proposal**

The legacy councils that were disbanded on 31 October 2010 used different measures to provide for the regulation of election signs in Auckland. Within the former Waitakere City Council the territorial authority had made the Waitakere City Council Election Signs Bylaw 2010 that came into force on 1 July 2010 but expired on 31 October 2010. The purpose of that bylaw was to comply with the Local Government (Tamaki Makaurau Reorganisation) Act 2009 for the October 2010 triennial general elections. Election signs in the former Waitakere City Council area are governed as permitted activities by Waitakere City Council's Operative District Plan 2003 and by the rules set out in the Electoral Act 1993 and the Electoral (Advertisements of a Specified Kind) Regulations 2005. Similarly the former Franklin District Council put in place election signs bylaw provisions specifically for the 2010 local body elections but these provisions do not have effect during any other elections. Election signs are controlled through the operative district plan and are a permitted activity as long as they comply with the standards set out in the Plan.

Manukau City Council, Rodney District Council, North Shore City Council, Auckland City Council and Papakura District Council respectively provided for control of election signs through their bylaws. Except for Manukau City Council which prohibits the erecting of election signs on a public place, the legacy bylaws in the other councils stated above identify specific public sites where election signs may be erected that comply with the Electoral (Advertisements of a Specified Kind) Regulations 2005. The former Auckland City Council and Papakura District Councils include the council designated sites as part of their respective bylaws while sites in the former North Shore City Council and Rodney District Council areas have been identified as part of other administrative procedures.

The diversity of these controls means that elections across Auckland cannot be campaigned for in a consistent style. This could produce unfairness for candidates in different areas and makes it harder for a consistent approach to be taken to the enforcement of provisions. The fact that the boundaries of the previous councils are not exactly the same as the wards for Auckland Council or General Election electorates and that the boundaries from the previous community boards differ from the local board boundaries means that individual candidates may also be subject to different controls on different streets for the one election. The replacement of these controls with a new Auckland wide bylaw is therefore justified.

The proposed Election Signs Bylaw 2013 is included with this statement of proposal.

## **3. Legislative context**

Sections 61 and 63 of the Local Government (Auckland Transitional Provisions) Act 2010 state that bylaws that were valid on 31 October 2010 remain valid within their respective areas until they expire or are revoked.

The current bylaws were made under the power to make the bylaws for signs (including election signs) which was previously contained in section 684 of the Local Government Act 1974. However that section was repealed on 10 May 2011 by the Land Transport (Road Safety and Other Matters) Amendment Act 2011, and those bylaws are now deemed to have been made by Auckland Transport under section 22AB of the Land Transport Act 1998.

In order to put in place a consistent set of controls for election signs on or visible from the roads that it controls and manages, Auckland Transport must make an election signs bylaw that applies throughout Auckland and revoke the clauses in the following bylaws that control election signs:

- Auckland City Council Signs Bylaw 2007;
- Chapter 19 (Temporary Signs) of the Manukau City Consolidated Bylaw 2008;
- Part 12 (Control of Temporary Signs) of the North Shore City Bylaw 2000;
- Chapter 22 (Temporary Signs) of the Rodney District Council General Bylaw 1998;
- Franklin District Council Control of Signs Bylaw 2007;
- Papakura District Council Control of Advertising Signs Bylaw 2008.

#### **4. Consideration of options**

AT has undertaken a review of the legacy council bylaws that relate to the erection of election signs. In order to follow best practice decision making principles, Auckland Transport has given consideration to the options available to it to achieve its objective of putting in place a consistent and safe regime for the erection of election signs across the Auckland Region. The options considered available to Auckland Transport are as follows:

- Option 1      Do nothing – leave the legacy bylaws that control election signs unchanged and:
- respond to issues arising on approved sites on a case by case basis using the current controls; and
  - enforce the restrictions of the legacy bylaws where appropriate.

The option of relying on a range of different controls in the legacy bylaws (for the Councils who retained their bylaws) and district plan controls (Waitakere City Council and Franklin District) for election signage does not enable Auckland Transport to adequately control the location of election signs on public land. In the area under the jurisdiction of the former Waitakere City Council and Franklin District Council, the erection of election signs is a “permitted activity” under the operative district plans. However, the location requirements for signs in Franklin (they can only be located wholly on private property) are in contrast to Waitakere, where signs can be located in the road margin as long as they meet the definitions of temporary signs in the District Plan.

Some of the other issues with this option are that the prohibition on the display of election signs on public places in the former Manukau area may be unreasonable and open to legislative challenge as it compares unfavourably with the rest of Auckland. Similarly the former Rodney District Council’s legacy bylaw which restricts candidates to 30 days for the display of signs, may be considered ‘ultra vires’ given that national legislation permits election signs for two months. Furthermore, there is no uniform approach to compliance and monitoring across the region due to the varying measures that the legacy councils used for controlling election signage. Finally it seems contrary to the intent and spirit of the restructuring of local government in Auckland to retain separate legacy bylaws for different areas unless there is a clear benefit from doing so.

- Option 2      Prohibit the erection of election signs on public places including roads by way of an Auckland wide bylaw.

Election signs would continue to be able to be erected on private sites so long as they did not constitute a safety hazard or block necessary lines of sight for traffic but all public sites would remain clear of election signs. This would be a simple rule to enforce as any sign that was not on a private site would be easily identified as being unlawfully erected.

This option would be consistent with Manukau and Franklin and several of the former community board areas of the legacy councils (Waiheke, Devonport and Takapuna) which all prohibited election signs on public sites.



However, to apply such a prohibition across Auckland may be considered unreasonable and open to legal challenge, because of the implied intent of the national legislation. The national legislation contemplates election signs being erected in public sites subject to controls in the national legislation and also to controls in local bylaws.

Additionally, to prohibit the use of public sites may reduce public awareness of the related election and therefore be contrary to efforts to encourage greater voter turnout and participation in elections.

Option 3 Regulate the erection of election signs by an Auckland-wide bylaw with controls for such matters as the strength of construction and safe sight lines but without designating particular public sites.

Candidates would be responsible for selecting suitable sites to erect election signs. The sites selected would be subject to controls in the bylaw for matters such as sightlines and the drip lines of trees. The sites would not be formalised through a resolution process, rather they would be assessed on a case by case basis.

The effect of this approach is that it would result in a time consuming, uncertain and unfair process for candidates erecting signs and may lead to undue proliferation of signs during the election period. This option may affect traffic safety and amenity values and place undue pressure on enforcement officers to deal with non-compliant signs. The overall effect may be an increase in costs related to monitoring and enforcement of the signs.

Such a system might also lead to election signs being placed in sites which are unsuitable for reasons that are not immediately apparent. For example if the subsoil of the site was contaminated in some way so that the driving of support poles into it was inadvisable.

Option 4 (Recommended) Regulate the erection of election signs by an Auckland-wide bylaw with specific controls for strength and safety but limit signs on public land to sites designated by resolutions made under the bylaw.

This option would ensure that a consistent set of controls concerning the construction and safety of election signs could be put in place across the entire region. It would also allow for the temporary use of appropriate public land for the display of election signs. This option supports the public benefits to be gained for democratic participation by assisting with raising awareness of elections and candidates.

As the resources of candidates and political parties are constrained, election signs are likely to be located where the optimum number of potential electors may see them, particularly on sites visible from roads.

This option would give certainty to political parties, candidates and enforcement officers as to the locations where election signs are permitted. It should also allow for a fairer allocation of space than option 3 as sites that are too small to display all relevant signs may be rejected.

Allowing for sites to be designated by resolutions made under the bylaw rather than listing all designated sites in schedules to the bylaw would provide appropriate flexibility to add or remove sites where appropriate without the need to go through a full bylaw making process for each small alteration to the list.

Option 4 is recommended as this approach ensures that Auckland Transport (or its delegate) is able to identify appropriate sites for election signs throughout Auckland using consistent criteria that will ensure safety and amenity values are retained.

## **5. Reasons for other specific provisions of the bylaw**

### *Size of signs and time period when signs may be displayed.*

Although it is possible for a bylaw to specify that election signs may be larger than 3 square metres or be displayed for longer than 2 months prior to an election Auckland Transport has seen no reason to depart from the standard sizes and time period set by the national legislation.

### *Limit on the number of signs per candidate or party per-site*

In order to be fair to all candidates it is proposed that only one sign per candidate be allowed at each designated public site. This makes it more likely that each candidate who wants to erect a sign on a site will have room to do so. However it is accepted that, in national elections, there are votes for candidates and parties so one sign should therefore be allowed for each candidate and for each party. It is also accepted that placing two signs back to back on the one structure can provide extra strength and take up no more space. The use of V-shaped signs with two panels that are not back to back may also have strength benefits but take up considerably more space – these should therefore only be allowed for on larger sites.

### *Signs on vehicles*

Auckland Transport's bylaws should support the objective of roads being effective for the purpose of the conveyance of people and goods from place to place. The use of vehicles for the primary purpose of displaying advertisements is not in accord with this objective whether adding to congestion when driving or taking up parking spaces that could be used by other vehicles. However the addition of signs on vehicles that would have been used in any event for day to day travel does not unduly impact on the use of the roadway for its primary purpose. It is therefore proposed that election signs be allowed on vehicles that are being used for ordinary travel but not on vehicles where the sole purpose of the use of the vehicle is the display of the sign (for example a trailer that is only carrying a sign and serving no other purpose).

### *Exclusion of signs from the drip line of trees*

As the support structures for election signs must generally be driven into the surface of the soil this can have a detrimental impact on tree root systems. By keeping election signs out from the drip line of trees this damage can be minimised to some extent.

### *Prohibition on attaching signs to publicly owned structures, street furniture and traffic signs*

This prevents damage to such structures and ensures that a level playing field is maintained for all candidates by not giving an advantage to those who first attach their sign to a publicly owned structure. Additionally the attachment of signs to traffic signs would distract drivers from those signs and be unlawful under traffic sign legislation.

### *Requirement for signs to be able to withstand normal weather conditions*

To manage safety and environmental effects, signs are required to be safely installed, secured and maintained so that signs do not present a hazard or danger to public safety. Signs must be able to withstand normal weather conditions expected at the time of year of the election to ensure road users are safe and to minimise visual and physical clutter.

### *Height above ground level*

It is proposed that the bottom edge of a sign be at least 500mm above ground height to allow for grass cutting operations to not be completely obstructed by elections signs. Having a limit on the height of the top edge of the sign lessens the distraction impact on drivers of signs that are at different heights and makes it easier for the construction of signs to be strong enough to withstand adverse weather conditions.

### *Duplication of controls from regulations*

Controls contained in the Electoral (Advertisements of a Specified Kind) Regulations 2005 prohibiting such things as the illumination of signs, moving parts, reflectiveness and signs that could be confused for traffic signs are duplicated in the bylaw to make it possible for the enforcement of these matters to be undertaken by officers with authority delegated from Auckland Transport using bylaw enforcement powers. This includes the power to immediately remove signs that are in breach of the bylaw.

### *Enforcement provisions*

Consistent and clear controls for elections signs in the bylaw that apply across Auckland will assist enforcement to be effectively managed in a consistent manner. It will also assist candidates and the public.

## **6. Consultation requirements for the Land Transport Act 1998**

In making a bylaw under the provisions of the Land Transport Act 1998, Auckland Transport must comply with the requirements applying to road controlling authorities that are not local authorities. The consultation requirements are set out under section 22AD which states-

*A road controlling authority that is not a local authority may not make a bylaw under section 22AB unless it has consulted with—*

- (a) the occupiers of any properties adjoining the road to which the proposed bylaw would apply; and*
- (b) any affected road controlling authorities that are responsible for roads that join, or are located near, the road to which the proposed bylaw would apply; and*
- (c) the territorial authority for the area where the road is located; and*
- (d) any affected local community; and*
- (e) the Commissioner of Police; and*
- (f) any other organisation or road user group that the road controlling authority considers affected; and*
- (g) the Agency (if the road controlling authority is not the Agency) [the New Zealand Transport Agency].*

To comply with these requirements, Auckland Transport will write directly to the stakeholders identified in (b), (c), (e), (f) and (g) above to give notice of the proposed Auckland Transport Election Signs Bylaw 2013 inviting them to make submissions. As it is impractical to write to each household adjoining every road in the region, Auckland Transport will comply with the requirement to consult with stakeholders identified in (a) and (d) above by publishing notices in the newspaper, information on the Auckland Transport website and by contacting the Local Boards.

With the exception of Manukau, Waitakere and Franklin, the controls in the proposed bylaw will be similar to the existing legacy bylaws controlling the display of election signs. As only a small percentage of the population are actively involved in the erection of election signs, a large scale education campaign is not required to advertise the implementation of the proposed bylaw.

After making the bylaw, Auckland Transport will submit a copy of it to the Minister of Transport for consideration. Pursuant to the Act, the Minister may amend, replace or disallow the bylaw if he finds it to be inconsistent with any enactment or unreasonable or undesirable in relation to its impact on traffic.

## **7. Analysis of the proposed Auckland Transport Election Signs Bylaw 2013**

The proposed Auckland Transport Election Signs Bylaw 2013 contains the following provisions:

*Clause 1:* This clause provides the title.

*Clause 2:* sets out the date that the bylaw comes into force. This date should be well in advance of the local authority elections to be held on Saturday 12 October 2013. Election signs would be able to be erected from 11 August 2013 to the 11 October 2013. (Noting the Electoral Act 1993 provides that signs must be removed before election day.

*Clause 3: sets the application of the bylaw.* The bylaw applies only to election signs that are on or visible from public roads under the control of Auckland Transport. The bylaw does not apply to places that are not visible from roads as these are beyond the jurisdiction of Auckland Transport. It is not however thought that there would be many signs erected in sites that are not visible from roads.

*Clause 4:* This clause sets out that the purpose of the bylaw is to regulate the display of election signs.

*Clause 5:* This clause provides definitions for terms used in the bylaw.

*Clause 6:* This clause restricts the display of election signs to sites on public places (including: roads, reserves, parks, beaches and recreational grounds specified by Auckland Transport, any private sites and on vehicles and / or trailers (so long as the principal function of the vehicles or trailers is not the display of election signs.

*Clause 7:* This clause prescribes the requirements that all election signs on public or private sites have to meet if the sign is on or visible from a road. These are primarily traffic safety requirements.

*Clause 8:* This clause prescribes the requirements that apply to signs on public places (roads, reserves, parks, beaches and recreational grounds) that are specified by Auckland Transport by resolution. It also allows for site specific requirements to be specified by resolution. Signs are required to be maintained in good order and the site for the sign must be restored to the condition it was in prior to the sign being erected.

*Clause 9:* This clause prescribes requirements that apply to signs on private sites that are visible from a road and signs on the front face of fences between private sites and roads.

*Clause 10:* This clause provides for the enforcement measures under the Local Government Act 2002 for the bylaw including the recovery of costs.

*Clause 11:* This clause prescribes the appropriate penalty for the breaching of the bylaw under the Land Transport Act 1998.

*Clause 12:* This clause revokes the legacy bylaws to the extent that they relate to election signs that are on roads or public places visible from a road. The legacy bylaws remain valid where the Auckland Transport Election Signs Bylaw 2013 does not apply.

## **8. Approval of election sign sites**

As noted above, the proposed bylaw would not contain a list or schedule of approved election sign sites but would instead allow for public sites to be specified by way of a resolution made under the bylaw. This approach of bylaws allowing for matters of detail to be determined by resolution is common and expressly allowed for in section 22AB(3) of the Land Transport Act 1998.

A resolution will be passed after the making of the Bylaw to enable sites to be used on and from 11 August 2013. It is likely that the majority of sites previously approved in relation to the areas of Rodney, North Shore, Auckland City, and Papakura will be included in that resolution. Similarly, sites that have commonly been used for election signs in the areas of Waitakere and Franklin could also be included in the resolution. A range of possible sites have been identified which might be included in the resolution for areas where previously no public sites were allowed for.

A list of election sign sites being considered for the first resolution for each local board area will be made available on Auckland Transport website during consultation on the bylaw and comments on these may be made separately from submissions on the bylaw. Comments on proposed sites will not be treated as submissions on the bylaw.

## **9. Conclusion**

It is proposed that the provisions in the legacy bylaws that control election signs on or visible from a road be revoked to enable a new bylaw to be made by Auckland Transport which will allow for identification of election sign sites in public places and roads. It will also specify consistent controls for the entire Auckland region in relation to such election signs. The location of the public sites will be specified by resolution instead of being listed in the bylaw to allow for changes to be made without requiring the amendment of the bylaw.

# Auckland Transport Election Signs Bylaw 2013

(as at [insert date] 2013)

Auckland Transport Board Meeting day/month/2013

DRAFT

## Explanatory Note

This bylaw made pursuant to section 22AB of the Land Transport Act 1998, allows for Auckland Transport to make bylaws about 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 date/month 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 elections signs may be displayed; and
- (b) controls for the display of election signs.

**5 Interpretation**

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

**election** means an election under the Electoral Act 1993 or the Local Electoral Act 2001.

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

**election sign** means a sign for a public referendum, parliamentary or local authority election, parliamentary or local authority by-election, or an election directed by a local authority under the Local Electoral Act, that encourages or persuades or appears to encourage or persuade voters to vote for a political 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 that is visible from a road under the care, control or management of Auckland Transport.



**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, and includes roads, reserves, parks, beaches and recreational grounds.

**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 sign** means a traffic control device within the meaning of Part 2 of Land Transport Rule 54002: Traffic Control Devices 2004.

**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) In this bylaw, election signs do not include any advertisement which is specified as not being an election advertisement under section 3A(2) of the Electoral Act 1993, or advertisements of a specified kind referred to in regulation 3(c) 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.

## **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 for the display of election signs;
  - (b) on a private site; or
  - (c) on a vehicle and/or including a trailer that is being used for day to day travel and the principal function of the vehicle or trailer is not the display of the election sign.
- (2) Auckland Transport may specify, by resolution, sites that are suitable for the display of election signs under clauses 6(1)(a).

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

- (1) A person who displays an election sign must comply with the following controls—
- (a) election signs must be removed before the close of the day before election day;
  - (b) elections signs must not be displayed on election day;
  - (c) election signs must not exceed 3m<sup>2</sup> in area;
  - (d) election signs must not be displayed in a way that endangers public safety;
  - (e) election signs must clearly display the name and contact details for the person responsible for the display of the election sign;
  - (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 or vehicle crossing;
  - (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) elections signs must not be internally illuminated by any means;

- (l) elections signs must not be externally illuminated by any artificial lighting that is designed specifically to illuminate the election sign;
- (m) election signs must not be animated;
- (n) elections signs must not be similar to or the same as any traffic sign in its shape and colour, and liable to be mistaken for a traffic sign;
- (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.

## **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 and must not be attached to any building, tree, litter bin, street furniture, traffic sign, 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);
  - (b) only one election sign promoting a person standing as a candidate may be displayed on a specified site;
  - (c) for a parliamentary election, in addition to any election sign promoting a candidate, each political party may display one election sign promoting that party on each specified site;
  - (d) a single election sign may consist of a single, double-sided panel or two panels displayed back to back;
  - (e) a single election sign consisting of two panels 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 8(2) as suitable for this configuration if the widest point of the V is not more than 1m;
  - (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 specified in clause 9(1)(b);
  - (h) election signs must not be displayed within the dripline of any tree;
  - (i) election signs must not be displayed on sites that are geological or archaeological features identified in the relevant district plan;
  - (j) no alterations or additions may be made to an election sign that protrude from the original size of the sign;
  - (k) election signs may only be displayed during the period two months commencing on the day that is two months before the election day and ending with the close of the day before the election day;
  - (l) maintain the election sign in good order and condition;
  - (m) 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) must have the consent of the occupier, or if an occupier cannot be located the consent of the owner of the private site, to display the election sign;
  - (b) election signs may be affixed to the front face of a fence between private property and a road but it must be within the surface area of the fence.

### **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 summary conviction to a fine not exceeding \$500.

## **Part 4 Revocation**

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

- (1) The provisions in the following bylaws, 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, are revoked:

Auckland City Council Signs Bylaw 2007;

Chapter 19 (Temporary Signs) of the Manukau City Consolidated Bylaw 2008;

Part 12 (Control of Temporary Signs) of the North Shore City Bylaw 2000;

Chapter 22 (Temporary Signs) of the Rodney District Council General Bylaw 1998;

Franklin District Council Control of Signs Bylaw 2007;

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 elections signs that are on or visible from roads that are under the care, control or management of Auckland Transport are revoked.