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# Review of Signage Bylaw and Election Signs Bylaw

## Recommendations

That the Board:

- i. Note the Signage Bylaw 2015 (“Signage Bylaw”) is a joint bylaw made by Auckland Transport (“AT”) and Auckland Council;
- ii. Note the Signage Bylaw is required by law to be reviewed by 26 May 2020 and Auckland Council has instigated a joint review of it with AT;
- iii. Confirm support for a joint review of the Signage Bylaw to proceed together with Auckland Council;
- iv. Note a Steering Group has already been formed between Auckland Council and Auckland Transport (“AT”) to steer and manage the review process for the Signage Bylaw, including AT’s Traffic Engineering Manager and Legal Counsel (Public Law) as AT representatives;
- v. Note that from an AT operations perspective it is considered highly desirable for the Signage Bylaw review to include consideration of election signage and whether such signage would be better regulated by being incorporated into an amended Signage Bylaw rather than separately under the Auckland Transport Election Signs Bylaw 2013 (“Election Signs Bylaw”);
- vi. Confirm support for review of the Signage Bylaw to include consideration of whether election signage would be better regulated by being incorporated into an amended Signage Bylaw;
- vii. Note that an internal AT Working Group will be set up to coordinate and manage AT’s input into the review;
- viii. Note that the Board will be kept updated on progress of the review of the Signage Bylaw through regular updates via the Chief Executive.

## Executive summary

1. The Signage Bylaw is a joint bylaw made by AT and Auckland Council in May 2015.
2. Bylaws made under the Local Government Act 2002 must be reviewed within the first 5 years of being made, and every 10 years thereafter.
3. The Signage Bylaw must be reviewed by 26 May 2020.
4. Auckland Council has instigated a joint review of the Signage Bylaw with AT.

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5. The Election Signs Bylaw was made by the AT Board on 30 May 2013 and has been amended 3 times (most recently in August 2017). AT may review the Election Signs Bylaw at any time.
6. Auckland Council is open to including consideration of election signage as part of the Signage Bylaw review given the close interrelationship between the Signage Bylaw and Election Signs Bylaw, Auckland Council's role as administrator and enforcer of both bylaws, and the need to comprehensively examine the issues relating to all types of signage in order to effectively review each bylaw.
7. From an AT operations perspective it is considered highly desirable for the review of the Signage Bylaw to include consideration of election signage and whether it should be regulated under the Signage Bylaw (rather than separately under the separate Election Signs Bylaw).
8. The Board is being asked to confirm its support for the Signage Bylaw to be reviewed and for that review to include consideration as to whether election signs should be regulated under an amended Signage Bylaw so that officials have a clear mandate to proceed with the review.

## **Strategic context**

9. Review of bylaws is critical to ensuring the appropriate and effective use of the bylaw mechanism to address the issues as intended from a policy perspective.
10. AT is required by law to review the Signage Bylaw by May 2020 and needs to do so together with Auckland Council, being the joint maker of the bylaw.
11. Given experience to date with the Election Signs Bylaw, it is opportune to also examine election signage as part of the Signage Bylaw to enable a more thorough and holistic examination of issues concerning signage across Auckland. It will also support achieving better clarification of the roles and responsibilities of AT and Auckland Council with respect to regulation of signage, including whether election signage should be regulated under an amended Signage Bylaw.
12. Reviewing the Signage Bylaw and including election signage as part of that review together with Auckland Council will support a robust review and well-informed decision-making by AT as to whether any changes should be made to the Signage Bylaw and inform whether the Election Signs Bylaw should be amended or revoked.

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## Background

### ***Signage Bylaw***

13. The Signage Bylaw is a joint bylaw made by Auckland Council's governing body on 26 May 2015 and the AT Board on 28 May 2015 under the Local Government Act 2002 ("LGA02"), the Land Transport Act 1998 ("LTA") and (in the case of Auckland Council only) the Prostitution Reform Act 2003.
14. The Signage Bylaw focuses on managing the impacts of signage on visual amenity, traffic and pedestrian safety, the safety and maintenance of signs, the use of public space and the content of signs. It sets technical standards (controls) for seven types of signage.
15. Section 158(1) of the LGA02 requires all bylaws made under that Act to be reviewed no later than 5 years of their being made and every ten years thereafter.
16. The Signage Bylaw was made under the LGA02 on 26 May 2015, so must be reviewed by 26 May 2020.
17. The Signage Bylaw does not apply to any election signage regulated by the Election Signs Bylaw. This report seeks the Board's support for that exemption to be revisited as part of the review of the Signage Bylaw.

### ***Election Signs Bylaw***

18. The Election Signs Bylaw was made by AT on 30 May 2013 under the Land Transport Act 1998 (LTA) and has since been amended three times: in August 2013, July 2014 and August 2017.
19. The Election Signs Bylaw regulates the display of election signs on or visible from roads under the care, control or management of AT and enables AT to specify where and how election signs may be displayed.
20. The LTA does not contain the same bylaw review requirements as the LGA02. There is no statutory requirement on AT to review the Election Signs Bylaw by any particular date, however AT may choose to review it at any time.
21. AT advised the Minister of Transport in formal correspondence in May 2016 that it intended to review the Election Signs Bylaw following the October 2016 local government election.

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22. The Election Signs Bylaw was last amended in August 2017 following issues being publicly raised regarding the temporal restriction on election signs imposed by the bylaw at that time and the possibility of implications arising under the New Zealand Bill of Rights Act 1990. AT amended the bylaw to remove the temporal restriction however there was no comprehensive review of the entire bylaw at that time.

***Administration and Enforcement of Signage Bylaw and Election Signs Bylaw***

23. AT has delegated authority to Auckland Council (under ATDI 2015/01) to make resolutions under bylaws made or deemed to have been made by AT to the extent that they apply to street trading and other activities in public places, and to signs (except traffic control devices), billboards and hoardings on, or visible from, the Auckland transport system. AT retains the following powers:

- the power to make resolutions specifying sites over a road or public place that may be used for the display of horizontal banners and specify controls for such banners under the AT and Auckland Council Signage Bylaw; and
- the power to make resolutions to specify election sites under the Election Signs Bylaw.

24. Auckland Council also currently administers and enforces bylaws made by AT to the extent that they apply street trading and other activities in public places, and to signs (except traffic control devices), billboards and hoarding on, or visible from, the Auckland transport system. (Auckland Council does this under delegation from AT (ATDI(B)-2018/01)). AT currently retains the power to specify election sites.

25. Auckland Council manages local government elections and the conduct of local government elections is the responsibility of the Auckland Council Electoral Officer.

***Review Project Steering Group***

26. A Steering Group has been formed between Auckland Council and AT to steer and manage the joint review of the Signage Bylaw. The AT roles identified as appropriate to sit on this Steering Group are the Traffic Engineering Manager and Legal Counsel (Public Law).

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## External Consultation/Engagement

27. Phase 1 of the review will involve engagement and consultation with a wide range of interested stakeholders on the current operation of the bylaws to invite their input on ideas for improvement (Phase 1) – this will be followed by reports to the Board on the findings of this initial research and engagement work.
28. Phase 1 of the review will result in a recommendation on whether provisions for election signs should be incorporated into an amended Signage Bylaw. If the recommendation is that election signs should be incorporated into the Signage Bylaw then that will trigger a formal process for revoking the Election Signs Bylaw as a sub-stream of Phase 2 of the review.
29. Phase 2 of the review will involve public consultation (under the special consultative procedure) on whatever outcome is reached following Phase 1 (ie the decision to either amend, revoke, revoke and replace, or continue the bylaw without amendment).
30. Auckland Council has already initiated preliminary engagement with stakeholders on the Signage Bylaw, with a plan to involve a wide range of stakeholders between now and March 2019 as part of Phase 1.
31. Auckland's local boards have a key role in operational decisions about local signage in their respective areas, so they will be consulted as part of Phase 1.
32. Following confirmation of support from the Board to also include consideration of election signs as part of the review, stakeholder engagement on the Signage Bylaw will also include engagement on election signs.
33. Key questions for engagement with respect to the review will include:
  - Are the problems the bylaw set out to address still problems?
  - Has there been any change in the nature and scale of the problems since the bylaw was made?
  - Is a bylaw the appropriate mechanism for addressing the signage issues?
  - What alternative regulatory measures could be used to address the issues related to signage?
  - What alternative non-regulatory measures could be used to address the issues related to signage?
  - Would visual amenity issues associated with signage be better managed through rules in the Unitary Plan?
  - Which signage issues should be managed by a bylaw or bylaws under the three relevant Acts: the Local Government Act 2002; the Land Transport Act 1998; and the Prostitution Reform Act 2003? (see Attachment 1)

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- Has implementation of the bylaw been effective and efficient?
- How are the existing delegations for decision-making and enforcement working? Are any changes required?
- What role could the local boards play in the future in decision-making about certain types of signs?
- Is the bylaw the most appropriate form of bylaw, and if not, what changes need to be made?

## Issues and options

### *Review Options*

34. AT must review the Signage Bylaw together with Auckland Council by May 2020. It is not a viable option for AT not to review the Signage Bylaw.
35. While there is no statutory requirement for AT to review the Election Signs Bylaw at this time, review of the Signage Bylaw provides a convenient and sensible opportunity to also examine election signage (which will inform decisions on the Election Signs Bylaw) with Auckland Council's support for the following reasons:
- The Election Signs Bylaw has attracted significant interest and criticism since it was first made in 2013 and has been amended three times.
  - In 2016 the Minister of Transport raised a number of concerns about the Election Signs Bylaw and at the time AT indicated to the Minister a clear intention to undertake a full review of the bylaw. A full review is yet to be completed.
  - Auckland Council provided formal comments and recommendations on the Election Signs Bylaw to AT by way of letter dated 26 June 2017. This informed AT's amendment of the bylaw in August 2017, however not all issues raised by Auckland Council were addressed through that amendment.
  - Auckland Council and AT both regulate signage in Auckland and there is a significant cross-over of issues and stakeholders.
  - Auckland Council is better resourced than AT to undertake certain aspects of the review process (such as consultation and engagement, policy development). Auckland Council is also largely responsible for the administration and enforcement of both the Signage Bylaw and Election Signs Bylaw and holds critical data on operation and enforcement of the bylaw. AT should utilise Auckland Council's support through the Signage Bylaw joint-review as much as possible to achieve a thorough review of the regulation of signage governed by both the Signage Bylaw and the Election Signs Bylaw.

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***Review Objectives***

36. The review will assess whether:

- the bylaw has addressed the problems as intended and delivered the intended outcomes;
- there has been any change in the nature and scale of the problem the bylaw was intended to address;
- the scope and content of the bylaw needs to be amended;
- implementation of the bylaw has been effective;
- the allocation of decision-making responsibilities for the bylaw provisions is still appropriate;
- the bylaw is still the most appropriate way to manage the problem(s) it is intended to address
- the bylaw is the most appropriate form of bylaw and, if not, what changes need to be made;
- the bylaw gives rise to any implications or is inconsistent with the New Zealand Bill of Rights Act 1990.

***Review Timeframes***

37. Phase 1 (Research and Engagement) of the review project has already started with respect to the Signage Bylaw and is planned for completion in July 2019. Subject to the Board confirming its support for election signage to be included for consideration as part of the review, research and engagement will be widened to include election signage.

38. Phase 2 (Formalisation of Phase 1 findings) will follow decisions being made in response to the findings of Phase 1 and will involve the formalisation of those changes (including through amendment to the bylaw(s) if and as needed) and will include public consultation. Phase 2 is expected to be complete by July 2020.



**Next steps**

39. Subject to the Board confirming its support for joint review of the Signage Bylaw with Auckland Council and for the review to include consideration of election signage, an AT Working Group will be established for the purposes of inputting into the review (being led by Auckland Council).

40. The Board will be regularly updated on the progress of the review through the Chief Executive.

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## Document ownership

<b>Submitted by</b>	Joanne Rua <b>Legal Counsel (Public Law)</b>	
<b>Recommended by</b>	Rodger Murphy <b>Executive General Manage Risk and Assurance</b>	
<b>Approved for submission</b>	Shane Ellison <b>Chief Executive</b>	