

Proposed bylaw for signage

Recommendations

That the Board:

- i. approves the commencement of the Auckland Transport public consultation on the combined Auckland Council/Auckland Transport Statement of Proposal in accordance with sections 83 and 86 of the Local Government Act 2002 and section 22AD of the Land Transport Act 1998 (a copy of the Statement of Proposal may be viewed at:
http://infocouncil.aucklandcouncil.govt.nz/Open/2014/08/RBC_20140819_ATT_4681_EXCLUDED.PDF
- ii. approves the consultation on the proposed draft combined Auckland Council/Auckland Transport signage bylaw 2014 that will apply to signage on or visible from the Auckland transport system, to be made in accordance with section 145 of the Local Government Act 2002 and section 22(AB)(1)(y) and (zk) of the Land Transport Act 1998 (a copy of the draft bylaw may be viewed at:
http://infocouncil.aucklandcouncil.govt.nz/Open/2014/08/RBC_20140819_ATT_4681_EXCLUDED.PDF
- iii. determines that a bylaw is the most appropriate way of addressing the problems relating to the display of signage on or visible from the Auckland transport system in accordance with section 155(1) of the Local Government Act 2002.
- iv. determines that the proposed draft bylaw is the most appropriate form of bylaw in accordance with section 155(2)(a) of the Local Government Act 2002 and the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 in accordance with sections 155(2)(b) and 155(3) of the Local Government Act 2002 as described in part 9 of the combined Auckland Council/Auckland Transport Statement of Proposal.
- v. authorises the Chair of the Board to make any minor edits or amendments to the Statement of Proposal or the proposed bylaw prior to consultation to correct any identified errors or typographical edits.
- vi. authorises the Chief Executive, in consultation with the Chair of the Board, to appoint representatives to the joint Auckland Council/Auckland Transport panel to hear and consider submissions made on the proposed bylaw.

Executive summary

This report seeks Auckland Transport Board's approval to undertake public consultation on a proposed combined bylaw to regulate signage on or visible from the Auckland transport system which is outlined in a combined Auckland Council and Auckland Transport Statement of Proposal.

It is noted that the Governing Body of Auckland Council will approve separate recommendations to undertake this combined consultation but in relation to signage on or visible from any road or public place which is **not** part of the Auckland transport system.

The Statement of Proposal reflects the legislative requirement for Auckland Council and Auckland Transport to review the legacy council bylaws and to propose new bylaws.

The Statement of Proposal contains:

- details of the review process and the proposal to revoke the existing legacy council bylaws;
- the proposal for a combined signage bylaw that will apply across Auckland in Auckland Council and Auckland Transport's respective areas of management and control;
- information on the bylaws to be revoked;
- the reasons for the proposals and the outcomes sought;
- the options considered and the recommended approach;
- the proposed combined signage bylaw.

Strategic and legal context

Strategic alignment

Auckland Transport seeks to be in line with the strategic direction of the Auckland Plan: *Auckland's transport system is effective and efficient, and provides for the region's social, economic and environmental and cultural wellbeing*. The proposed bylaw will assist in achieving this outcome by proposing controls which enable the display of signage on or adjacent to roads considering the benefits for the general public, local businesses and the local economy whilst ensuring the location, placement and size of signage does not have any negative impact on public safety for pedestrians and other road users.

The proposed Auckland Unitary Plan policy objectives have guided the development of a bylaw for signage. The Unitary Plan or the Auckland Council District Plan Hauraki Gulf Islands Section - Operative 2013 (which remains in force), will cover:

- signage that advertises any business, service, goods, product, activity or event that is not directly related to the primary use or activities occurring on the site of the sign;
- signage which is part of a comprehensive development or re-development of a site;
- signage within a historic heritage place; and
- rules for buildings, objects, other than the following signage will be regulated.

Legal framework to review and make bylaw

Auckland Transport and Auckland Council are required to review the current legacy council bylaws under sections 61 and 63 of the Local Government (Auckland Transitional Provisions) Act 2010.

Auckland Council and Auckland Transport (in accordance with section 46 of the Local Government (Auckland Council) Act 2009) may make bylaws under the Local Government Act 2002 and the Land Transport Act 1998 covering their respective areas of management and control.

In the case of Auckland Transport this power to make bylaws can be exercised in relation to signage on or visible from the Auckland transport system and Auckland Council has the same power in relation to any road or public place which is not part of the Auckland transport system.

Combined bylaw

Auckland Transport and Auckland Council propose a new combined bylaw to govern the display of signage to address the issues that arise from the use of signage including issues relating to traffic safety, public safety and nuisance, access and amenity. The Statement of Proposal discusses all aspects of the combined bylaw however the Governing Body of Auckland Council and the Auckland Transport Board are only empowered to make recommendations in relation to their respective jurisdiction.

Auckland Council and Auckland Transport may make bylaws under sections 145 the Local Government Act 2002 to:

- protect the public from nuisance;
- protect promote and maintain public health and safety.

and under section 22AB(1)(y) of the Land Transport Act 1998 to:

- regulate the display of signage on or visible from the Auckland transport system or that is on or visible from a public place;
- regulate road-related matters including enhancing road safety and protection of the environment.

Only Auckland Council only may make clause 23 of the bylaw to regulate signage used to advertise commercial sexual services under section 12 of the Prostitution Reform Act 1993.

Background

Joint Auckland Council/Auckland Transport review of legacy bylaws

Auckland Council and Auckland Transport have undertaken a joint review of legacy bylaws relating to signage in or visible from roads or public places. Auckland Council and Auckland Transport inherited 23 sets of signage rules in bylaws, district plans and regional plans. The legacy bylaws regulated the display of signage in a range of ways in their respective areas to deal with the perceived problems caused by signage. The Statement of Proposal sets out a proposal to determine region wide rules that are consistent and address the pedestrian and traffic safety requirements while balancing the interests of the public and business to allow the display of signage.

Proposed Auckland Council/Auckland Transport Signage Bylaw

The proposed bylaw is intended to provide for a generally harmonised approach across the region. It aligns with signage controls in the Auckland Unitary Plan and the Auckland Transport draft Code of Practice for use of the road corridor (ATCOP).

The proposed bylaw includes:

- controls for all publicly visible signage – e.g. pedestrian and traffic safety, amenity, maintenance, location, size controls to ensure signage does not obstruct roads including intersections and footpaths;
- controls for specific signage types – e.g. portable signage; stencil signage and similar ground markings; free standing signage; poster signage; banners; veranda signage; wall mounted signage; and window signage;
- controls for common uses of signs e.g. real estate signage; vehicle signage; public open space signage; commercial sexual services signage; event signage;

- approval for signage that does not meet the bylaw in limited circumstances based on the criteria in the bylaw and Auckland Council and Auckland Transport policies for management of signage including traffic safety, public safety and amenity;
- transitional rules allow signage approved under legacy council rules to remain in place which should minimise the enforcement issues and associated cost for Auckland Council and Auckland Transport and businesses. Existing temporary (portable) signs must comply within six months of the bylaw implementation as these signs are temporary in nature and relatively inexpensive to alter or replace. Existing permanent signs can remain in place as long as they comply with the general safety standards of the new bylaw (in Part 2), and unless changes are made including to the size, location, static to changeable messaging, a new bus route is created, in which case signage must be moved back to meet the 0.8 metre distance from the kerb.

Issues and options

Standards set for the display of signage

The proposed bylaw sets the following standards and controls for signage:

- appropriate standards for traffic safety, pedestrian safety, access and amenity;
- controls on type, size, location and length of use of signage on public places e.g. portable, posters, banners and event signage) and permanent signage e.g. free standing, attached to buildings, walls or windows and attached to verandas over roads and other public places;
- regional consistency for the display of signage (with appropriate local variation).
- sign content (objectionable, discriminatory or offensive).

Issues

The issues related to the display of signage on roads or public places or adjacent areas are discussed in the Statement of Proposal. The issues do not differ from the issues addressed by legacy bylaws but ensures regional consistency. Signage has the potential to create issues to do with traffic safety, pedestrian access (obstruction) and safety, visual amenity, offensiveness, economic fairness and the use of public spaces.

Options considered to address the display of signage

Auckland Council and Auckland Transport considered a range of options to regulate the potential issues and problems with signage including:

- Option 1: no action by Auckland Council or Auckland Transport (“Do nothing”) – This means no role for Auckland Council and Auckland Transport in managing the activity through a regulatory approach, rely on existing legislation such as transport legislation (e.g. Land Transport Rule: Traffic Control Devices 2004 rules relevant to advertising signage) or local government powers (e.g. encroachment section 357 of the Local Government Act 1974; This includes using alternative non-regulatory methods such as public information, education and awareness campaigns, accords and agreements;
- Option 2: regulation through district plan rules and the proposed Auckland Unitary Plan;
- Option 3: regulation through a bylaw.

Recommended option

The preferred option is to regulate through the proposed bylaw as provided in option 3. Consistent, clear and transparent standards across Auckland enable signage regulation to strike a balance that promotes business success while meeting the community's expectations concerning access, safety and amenity. Relying solely on the first or second

options are not considered reasonably practicable options and nor are they sufficient to address issues associated with the display of signage. These options do not provide the certainty of specific standards for the display of signage. These options would require Auckland Council or Auckland Transport to make decisions on signage on a case by case basis and do not enable Auckland Council or Auckland Transport to take enforcement action under legislation enabled with the making of a bylaw. These options can however be used by Auckland Council and Auckland Transport to supplement the preferred option of making a bylaw.

With respect to Option 3, the proposed bylaw has been drafted to align with the proposed Auckland Unitary Plan. It is noted that the objectives for signage in the proposed Auckland Unitary Plan state that a bylaw will cover the types of signage in the proposed bylaw.

Specific signage types and uses

Changeable message signs (electronic media)

The proposed bylaw includes new technical standards for changeable message signs as many of the legacy rules either did not cover this form of signage or have become outdated.

Static illuminated signage

The controls relating to static illuminated signage are intended to ensure light sources associated with this type of signage are shielded so glare does not extend beyond the signage and impair the vision of drivers or pedestrians. The standards are determined in accordance with the New Zealand Transport Agency's guidelines in the Traffic Control Device Manual Part 3 Advertising Signs.

Coastal areas

Signage is necessary in the coastal marine area to ensure navigational safety and public health and safety. It is used to identify wharves and activities on wharves, identify boundaries of marine reserves or other significant areas and to advise if particular activities can or cannot be undertaken. This signage also relates to the operation of ferry based public transport facilities and business located there. There is a need to recognise these areas can accommodate greater levels of signage however there is still a need to ensure that visual amenity value of these highly viewed waterfront areas is maintained.

Portable signage

Portable signs have not been regulated in the same way by all the legacy councils. Setting new Auckland-wide standards for portable signs would allow the use of board signs and flags while still ensuring pedestrian access and safety, in line with Auckland Transport's Code of Practice; and while protecting the amenity and character of areas (The Auckland Plan - Strategic Direction 10).

Stencil signage and similar markings

The control of stencils on public property (other than roadway where advertising is prohibited under New Zealand national legislation) are regulated and approved appropriately by location, time, content and material or product used.

Free standing signage

The controls in the bylaw address the issues associated with this signage relate to their number, size and location. They are generally located near property boundaries adjoining the roading network which can create clutter and block the vision of people trying to enter or exit a property in a vehicle, if poorly located.

Poster signage

Posters are a popular form of advertising, particularly for community and arts based events. The problem is ensuring they are used appropriately to preserve the amenity of an area and the safety of those using the transport network where these signs are either aimed at pedestrians or passing motorists. Controls are placed on illegal “fly posters” e.g. any infrastructure, street furniture, lighting poles and utility boxes.

Banners

Banners for advertising displayed across roads or public open spaces for upcoming events are covered by various controls in current legacy areas.

Controls are included to enable a determination to be made on the location of banner sites to address safety risks for areas that have high levels of vehicle and pedestrian traffic e.g. in town centres and retail and business centres. Specific provisions are included to ensure banners meet specific load bearing standards. Controls on the commercial content of banners may be determined to address the appropriate use of public space.

Veranda signage, wall mounted signage and window signage

Controls address potential problems that arise when these types of signage are misused, poorly placed or inappropriately sized. This signage needs to be used in conjunction with urban design principles.

Vehicle signage

The proposed bylaw restricts vehicles from being driven or parked on roads solely for the purpose of advertising goods and services. It is also intended to prevent ad hoc car fairs which may result in traffic slowing or drivers being distracted, and pedestrians entering the roadway in order to inspect both sides of the vehicles being offered for sale.

The controls support the objective of roads being effective for the purpose of the conveyance of people and goods from place to place. Safety controls apply to the display of real estate flags on legally parked vehicles to advertise open homes and auctions.

It is noted that these provisions might be seen as raising an issue in relation to the freedom of expression set out in the New Zealand Bill of Rights Act 1990 (NZ BORA). However it is considered that the provisions are appropriate in that they are safety related or prevent the commercialisation of public space. The provisions will not prohibit the practice of using sign written vehicles or placing a “for sale” notice in a vehicle which is being used for daily travelling, and so it is considered these provisions are not unjustified limitations on freedom of expression in a democratic society. General discussion on the bylaw considered in light of the rights and freedoms set out in NZBORA is contained in Chapter 9 of the Statement of Proposal.

Event signage

Event signage for local, regional or major is an important element in the success of an event. Controls proposed to address issues associated with event signage enable appropriate locations to be determined to ensure safety for users of the roading network, ensure visual amenity is maintained and control the potential litter from signage that is abandoned after the event. The controls are graduated so that greater flexibility is allowed while still maintaining standards for local events like school or church fairs that present lower risk to public safety.

Public Open Spaces

Controls allow for signage in sports and active recreation areas to display commercial messages if appropriate. Controls also apply to ensure appropriate size, number, location, duration of signs to protect the inherent recreational values of such space. Certain types of

signage are appropriate in certain public open spaces, such as pitch side hoardings and scoreboards in sports and recreational zones, portable signage for mobile food and beverage vendors.

Financial impact

No financial impact has been identified for Auckland Transport. The administration and enforcement of the legacy signs bylaws are currently delegated to Auckland Council's Licensing and Compliance Services.

Stakeholder engagement

Prior to public consultation, Auckland Council managed the stakeholder engagement which has involved participation by Auckland Transport. Discussion was undertaken with political, internal and external stakeholders including local boards; representatives from the signage industry, real estate industry, business associations, and disability groups. Discussions were also held with internal groups at Auckland Council and Auckland Transport and the Council Controlled Organisations responsible for the management of some activities such as events.

Risks and Mitigation

The controls in the bylaw address issues of safety, nuisance or damage that would otherwise arise if not addressed by the proposed bylaw.

Customer impact

Auckland Council will be responsible for administering and enforcing the bylaw. The new bylaw will generally set standards similar to many of the requirements in legacy bylaws and district plans although the proposed bylaw includes changes in some areas of Auckland. In some areas the standards in the proposed bylaw will mean greater restrictions for some types of signs where those signs are not currently specifically controlled. A more lenient approach is taken for other types of signage. For example: temporary signage will contain tighter restrictions for real estate directional signs and advertising banners; new standards for visual amenity and safety in the street. The proposed bylaw contains new technical standards for changeable message signage to replace the technical specifications in the legacy rules, many of which either did not cover this form of signage or have become outdated.

Legal and regulatory issues


No legal or regulatory issues have been identified. The proposed Statement of Proposal and bylaw were reviewed for Auckland Council and Auckland Transport by Simpson Grierson.

Next steps

The new bylaw is proposed to be notified for a one month public consultation period.

- Hearings on the submissions and deliberations will be undertaken by a panel jointly appointed by Auckland Council and Auckland Transport.
- The Board and the governing body of Council will each make the signage bylaw covering their respective areas of management and control after consideration of a hearings report which is expected to be later in 2014.

Document ownership

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