

Consultation on
Amendments to the
Auckland Transport
Election Signs Bylaw 2013
Your feedback

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Summary

Auckland Transport (AT) proposed several amendments to the Auckland Transport Elections Signs Bylaw 2013. We consulted on this proposal from 6 June to 26 June 2017 and received 51 submissions in total.

Key themes in feedback

The key themes identified in the feedback were:

- concern about the removal of the commencement date for erection of election signs (i.e. deletion of clause 7(1)(aa)). 78% of submitters are concerned about or oppose this amendment
- requests to further clarify the rules around signage types and locations (18%)
- support for proposed clarifications around changeable signage (12%).

Decision

On 1 August 2017, the AT Board resolved to pass the Auckland Transport Election Signs (Amendment No. 3) Bylaw 2017, with effect from 1 August 2017, thereby amending the Auckland Transport Election Signs Bylaw 2013.

See [Appendix 1](#) for the report that went to the Board. This includes AT's recommendations in response to submitter feedback.

The official minutes from the Board meeting will be published on the [AT website](#) on Tuesday 5 September 2017.

Rationale

The majority of submitters were not in favour of the removal of the time-based restrictions as proposed; however, this is what the new bylaw has done.

The reason is that the Bill of Rights Act guarantees the rights of citizens and groups (such as political organisations) to freedom of expression. Councils and their CCOs cannot legitimately limit this right, except for over-riding reasons, such as safety.

However, we have taken on board the concerns of many submitters over the potential visual pollution created by excessive signage, and the risk of signage remaining in place for long periods becoming unsightly. We have additional means at our disposal to deal with these issues, other than through the revised bylaw.

Auckland Transport would like to take the opportunity to thank the many submitters for their interest in this important constitutional debate.

Background

AT proposed amendments to the Auckland Transport Election Signs Bylaw 2013 to clarify controls relating to the display of election signs. The amendments will also remove the present restriction limiting the display of election signs to the nine-week period preceding a general election, local election, or election for the Auckland Energy Consumer Trust.

The removal of the temporal restriction for the display of election signs will provide greater flexibility both to Auckland Transport as the controller of specified signage sites in public places, and to those wishing to display election signs as to the period during which election signs may be displayed.

The display of election signs on specified sites within the road corridor remains at the discretion of Auckland Transport.

The proposed amendments to the bylaw are to be made by AT under the Land Transport Act 1998 (“Act”). AT does not consider the likely impact on the public due to the proposed amendments to be significant.

Context

The election signs bylaw sets out provisions to regulate election signs to be displayed on specified public sites, on vehicles, and on private sites.

The main purpose of the bylaw is to ensure that safety issues are considered and amenity values are retained when candidates erect election signs. The aim is to provide certainty for candidates, political parties, and the public, by having a consistent set of controls for the display of election signs on public sites, private sites and on vehicles.

The bylaw was made on 30 May 2013, and was subsequently amended on 12 August 2013 and 18 July 2014.

Proposed amendments

We proposed changes to several paragraphs in the bylaw, as outlined below (proposed additions are underlined, proposed deletions are ~~scored through~~).

- **Clause 5 Interpretation**

Insert in subclause (1) in appropriate alphabetical position:

changeable message signage means publicly visible signage with mechanical or electronic moving images or displays, including LED, neon, and electronically projected images.

- **Clause 7 Controls for election signs**

In subclause (1), revoke paragraph (aa), add new paragraph (ma), and amend paragraphs (b), (d), (g), (j), (m), (n) and (o) as follows:

(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 [for elections under the Electoral Act 1993](#) must not be displayed on election day;
 - (c) election signs must not exceed 3m² in area except for signs on commercial billboards which may exceed 3m²;
 - (d) ~~election signs must not be displayed in a way that endangers public safety~~ [election signs must not obstruct or hinder the safety or movement of persons using the roadway, or unreasonably obstruct or hinder the safety or movement of persons using the footpath or any part of the road;](#)
 - (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~~ [determined according to the Austroads Guide to Road Design](#);
 - (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~~ [election signs must not contain reflective, fluorescent or phosphorescent materials that may reflect headlights, distract, or interfere with the vision of a person using the public place or road;](#)
 - (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~~ comprise or include any changeable message signage;
- (ma) election signs must not obstruct, obscure, or impair the view of, or form the background or foreground to, or appear alongside, any traffic control device of similar colour when viewed by the driver of an approaching vehicle;
- (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~~ election signs must not resemble, or be likely to be mistaken for, a traffic control device in colour, shape or appearance;
- (o) ~~election signs must not display flashing, revolving or changeable information or images~~ election signs must not use flashing or revolving lights, lasers, or any other method of illumination that may adversely affect the amenity of the surrounding area or traffic safety;
- (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.

See the [project webpage](#) for the full Auckland Transport Election Signs Bylaw 2013.

Consultation

We consulted on the proposed amendments from 6 June to 26 June 2017.

Activities to raise awareness

To let you know about our consultation, we emailed consultation information and feedback forms to:

- all political parties standing in the upcoming 2017 general election
- 511 electoral candidates
- all Auckland Council councillors and local board members
- Waikato Regional Council and Kaipara District Council
- democracy services, electoral, bylaws and compliance, and public law departments at Auckland Council
- all District Health Boards in the Auckland region
- Auckland Licensing Trusts, Police, Fire, St John, and the Blind Foundation
- roading interest groups including Heavy Haulage Association, National Road Carriers, NZ Transport Agency, AA, RTANZ, Entrust and Generation Zero.

We also placed two public notices in the New Zealand Herald on Wednesday 14 June and Wednesday 21 June 2017.

Giving feedback

We asked what you think about the proposed amendments, what you would change about them, and if there are any additional amendments you would like to see.

Feedback was provided online through our [Have your Say](#) consultation webpage and by using the freepost feedback forms that were emailed to key interest groups. See [Appendix 2](#) at the end of this report for a copy of the feedback form.

Your feedback

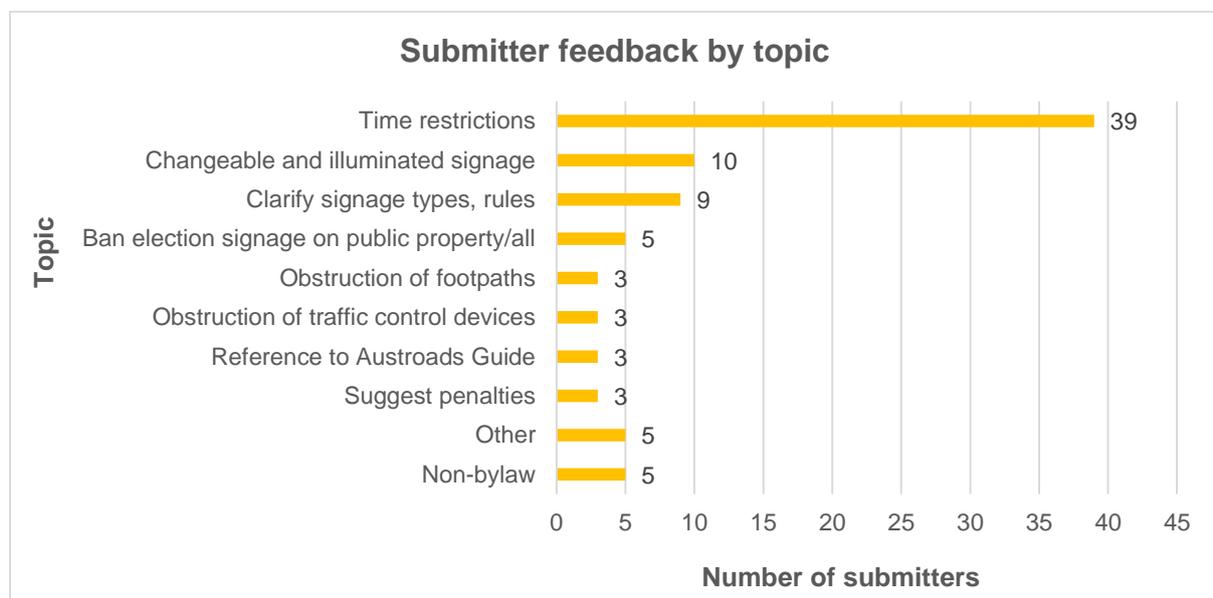
Overview

We received feedback on the proposal from 51 submitters.

- 41 of these were submitted online and 10 were submitted using the hardcopy feedback form or via email.
- Submissions were analysed and key themes and suggestions identified in the feedback are outlined in the following sections.

Themes in feedback

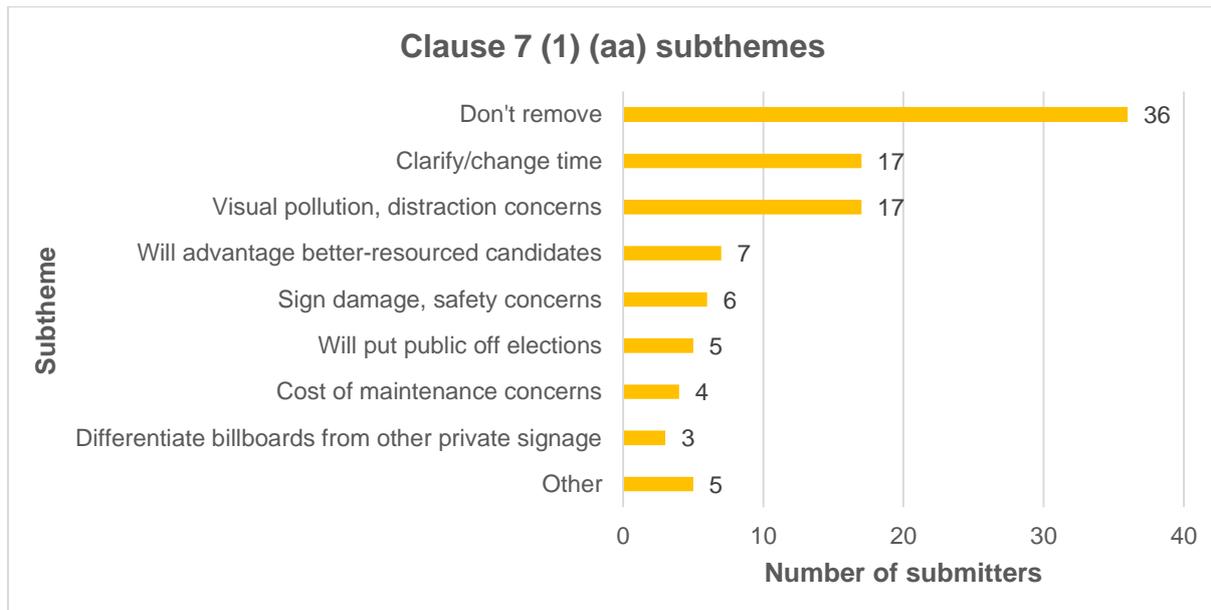
Feedback by topic



Submissions may be counted in more than one theme.

The most commented theme in the feedback was the proposed change to time restrictions through deletion of clause 7(1)(aa), which was mentioned by 39 submitters. Ten submitters also commented on the proposed amendments, which clarify the rules around use of changeable, electronic and lighted signage. In addition, nine submitters suggested further clarification of the rules around different signage types, sizes and locations.

Subthemes in feedback on time restrictions

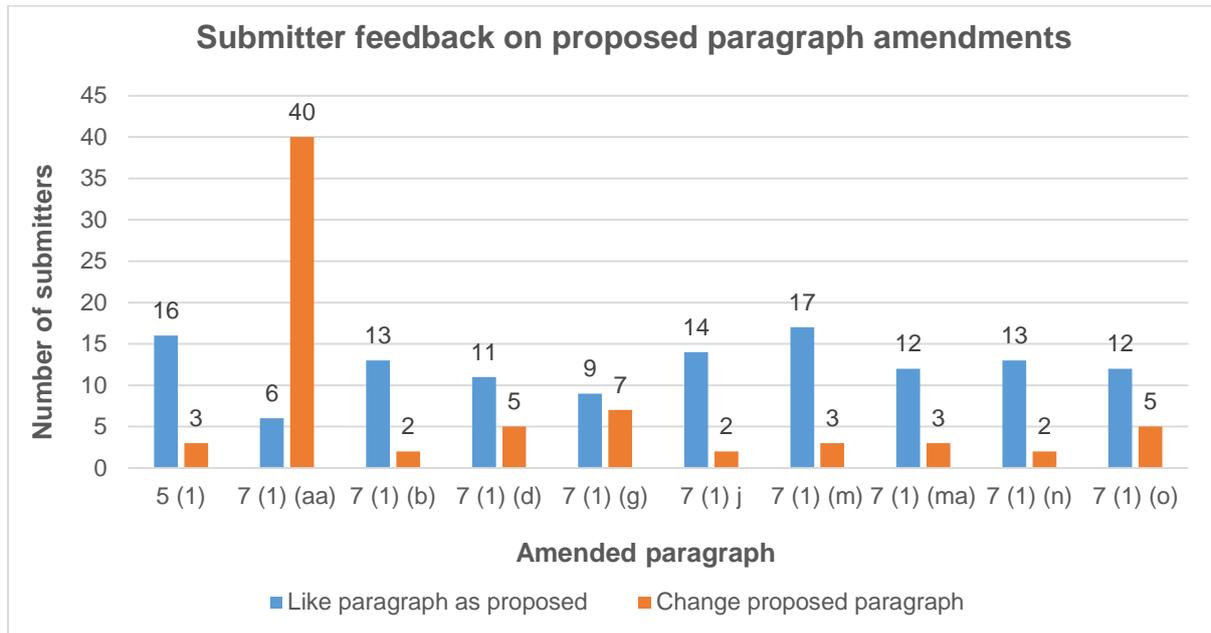


Submissions may be counted in more than one theme.

Most submitters who commented on time restrictions do not want clause 7(1)(aa) to be removed. Seventeen submitters would like time restrictions on erection of election signs clarified, including suggesting a longer or shorter period than the current nine weeks allowed. Visual pollution and distraction of drivers was also a major concern, with 17 submitters commenting that having signs up for longer would increase the existing visual pollution and distraction.

Smaller themes include concerns around disadvantaging candidates or parties with fewer resources (7 submitters), sign damage and safety (6), public engagement in elections (5), and costs of maintenance (4). In addition, three submitters suggested that time restrictions on billboards be changed separately from those on public and/or other private sites.

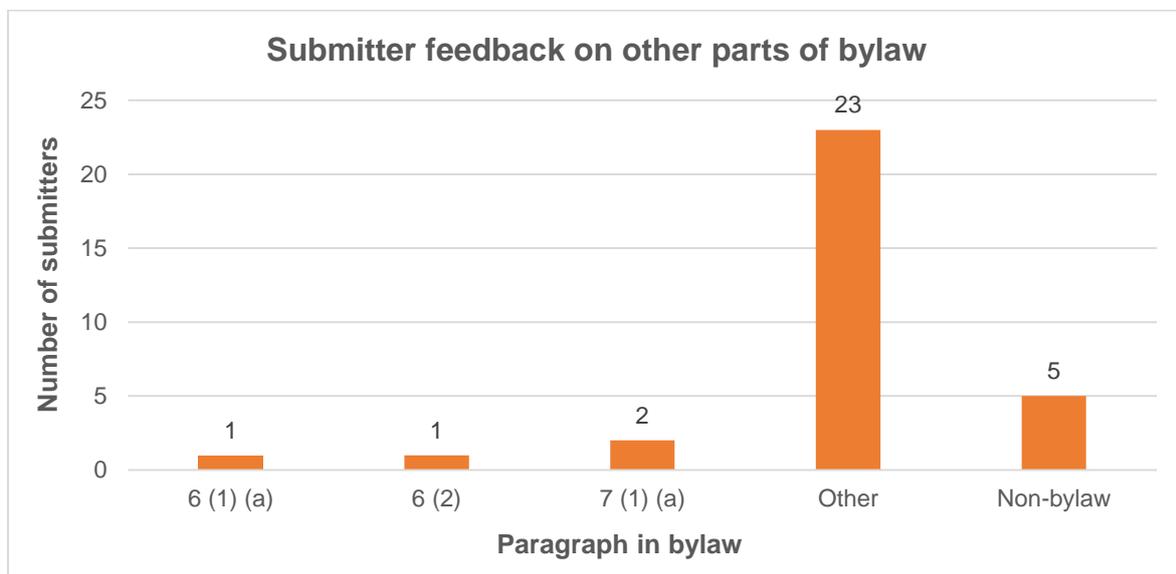
Feedback by clause



Submissions may be counted in more than one theme.

Submitters were generally supportive of most of the proposed amendments. However, the majority (78%) had concerns about or were opposed to the removal of time restrictions through the proposed deletion of clause 7 (1) (aa).

Feedback on other parts of bylaw



Submissions may be counted in more than one theme.

Few submitters commented on other paragraphs in the bylaw, however, we received 23 suggestions for changes to the bylaw that did not relate to a specific clause or paragraph. 5 submitters also suggested changes to regulations outside of the bylaw, including the list of election sign sites.

Appendix 1: AT Board Paper

Amendment of the Auckland Transport Election Signs Bylaw 2013

Recommendations

That the Board:

- i. Notes and considers the Election Signs Bylaw feedback analysis summary in Attachment 2.
- ii. Resolves to make the Auckland Transport Election Signs (Amendment No. 3) Bylaw 2017 set out in Attachment 3 pursuant to section 22AB of the Land Transport Act 1998 with effect from 1 August 2017, thereby amending the Auckland Transport Election Signs Bylaw 2013 (as shown in Attachment 4).
- iii. Authorise the Chief Executive to make any minor edits or amendments to the Auckland Transport Election Signs (Amendment No. 3) Bylaw 2017 to correct any identified errors or typographical edits or to reflect decisions made by the Auckland Transport Board.

Executive summary

1. On 30 May 2013 Auckland Transport, as road controlling authority for Auckland, made the Auckland Transport Election Signs Bylaw 2013 (“Bylaw”) under section 22AB(1) of the Land Transport Act 1998. The Bylaw imposed a nine-week temporal restriction on the display of election signs on public sites. Auckland Transport on the 29 July 2014, made the Auckland Transport Election Signs (Amendment No. 2) Bylaw 2014, thereby amending the Bylaw by extending the nine-week temporal restriction to election signs displayed on private sites. Consideration was given as to whether the proposed extension of the temporal restriction placed an unreasonable limit on the right on freedom of expression and it was determined that such restriction was in the circumstances, reasonable.
2. During the 2016 local body election an Auckland mayoral candidate requested the Minister of Transport to disallow the Bylaw under the provisions of the Land Transport Act 1998 (“LTA”). It was claimed that due to the temporal restrictions on the display of election signs the Bylaw breached the right to freedom of expression in the New Zealand Bill of Rights Act 1990 (“BoRA”). A review of the temporal restrictions in the Bylaw revealed possible inconsistencies with the right of freedom of expression as provided in BoRA and on 28 March 2017 the Board approved the proposal to consult in adherence with the principles set out in the Local Government Act 2002 (“LGA’02”) to amend the Bylaw by removal of the temporal restriction associated with the display of election signs and to correct other minor issues in the Bylaw (“Proposal”).

3. Consultation was undertaken with the public and stakeholders between 7 June 2017 and 26 June 2017 and Auckland Transport received 51 submissions on the Proposal. Submissions were in favour of all minor amendments. Submissions did not support the removal of the temporal restriction, in relation to public sites. Most concerns raised in that regard are able, however, to be adequately addressed by imposing appropriate temporal restrictions when specifying, by resolution under the Bylaw, public sites suitable for the display of election signs.
4. As well as the proposed removal of the temporal restriction relating to the display of election signs the Proposal included minor amendments to the Bylaw concerning the obstruction of footpaths, traffic control devices, the illumination of signs and the restriction on changeable messages.
5. The proposed amendments as publicly notified are attached as Attachment 1, with a comparison of the recommended amendments attached as Attachment 2.
6. The review of the Bylaw was carried out with input from Council's legal team.

Strategic context

Scope of the Bylaw

7. The Bylaw applies to Local Government elections (including licensing trusts and district health boards), parliamentary elections and referenda and regulates the display of election signs on roads or visible from roads or public places throughout Auckland for the purposes of the safety of the public by way of minimising the potential of election signs causing traffic safety hazards.
8. The Auckland Transport Election Sign (Amendment No 3) Bylaw 2017 does not affect the scope of the Bylaw but if made will remove the nine-week temporal restriction to ensure alignment with the BoRA. It is anticipated the removal of the temporal restriction on the display of election signs will have no discernible impact on public safety.

Background

9. On 30 May 2013 Auckland Transport made the Bylaw under section 22AB(1) of the Land Transport Act 1998 which included a nine-week temporal restriction on the display of election signs on public sites only. The Bylaw was amended following the October 2013 local elections to extend the temporal restriction to private sites. It was recognised that the differentiation between public and private sites had caused confusion and resultant unnecessary visual distraction for road users during the 2013 election. On 29 April 2014 the Auckland Transport Board resolved to amend the Bylaw, considering that such amendment was not inconsistent with the BoRA.
10. An Auckland mayoral candidate in 2016 requested the Minister of Transport disallow the Bylaw (as amended in 2014) under the provisions of the LTA claiming the Bylaw breached the BoRA. A review of the BoRA aspects of the Bylaw was undertaken which identified potential issues. The Minister declined to disallow or amend the bylaw under the LTA.

11. At its meeting of 28 March 2017 the Auckland Transport Board approved that consultation proceed on the Proposal without use of the Special Consultative Procedure set out in the LGA'02 as the impact of the proposed amendment to the Bylaw was not considered to not have a significant impact on the public.
12. The Proposal, including the draft Bylaw amendments, were published in accordance with the LGA'02 and notice was given to Auckland Council, Police, the NZ Transport Agency, major political parties and affected or interested parties to the proposed amendments. Consultation with affected parties occurred between 7 June 2017 and 26 June 2017. A total of 51 submissions were received and have been collated in the attached Election Signage Bylaw Feedback Analysis summary (Attachment 2).

Submission Analysis

Overview of the submissions

13. The following is an analysis of the submissions made and noted in the attached Election Signs Bylaw feedback analysis summary. Most submissions commented on the temporal restriction relating to the display of election signage. Submissions received in regard to the proposed minor amendments to the Bylaw were predominately in support.
14. Following the consideration of the submissions it is recommended that the amendments be largely adopted as proposed. There are two recommended changes to the Proposal in regards to the technical guidelines to be referenced and restrictions of election signs that interfere with traffic control devices. It is also recommended that attention is directed in future review of the Bylaw to matters beyond the scope of the Proposal which have been raised in submissions and highlighted in this analysis.

Table 1: Submission topics and relevant bylaw clause(s)

Topic Number	Submission Topic	Relevant Bylaw Clause(s)
1	Time Restriction	7(1)(aa)
2	Illuminated, reflective and Changeable Message Signage	5(1), 7(1)(j), (m), (o)
3	Obstruction of footpath	7(1)(d)
4	Obstruction of traffic control devices	7(1)(ma)
5	Reference to Austroad Guides	7(1)(g)
6	Other comments received	

Submission Topic 1 – Time Restrictions

Proposal as publically notified

15. Auckland Transport notified a proposal to amend the Bylaw to remove the temporal restriction in clause 7(1)(aa) of the Bylaw. This clause currently restricts the display of election signage to a nine-week period immediately prior to an election.

Matters raised in submissions

16. 40 submitters disagreed with the proposed removal of the temporal restriction. Most submitters raised concerns over visual pollution and safety impacts. Visual pollution issues included loss of amenity if election signs were to remain longer than a nine-week period. Submitters were also concerned at the increased safety risk associated with a lack of maintenance and the inherent temporary nature of such signage and supporting structure should the display of election signs be permitted for longer than the current nine-week period.
17. Some submitters preferred having a temporal restriction affecting the display of election signs in a bylaw giving a clear single source of when election signs should be displayed (possibly not appreciating that the provisions in the Electoral Act 1993 relating to the display election signs for a general election will override the provisions of the Bylaw). Concerns were also expressed over the possibility that having no temporal restriction would give an advantage to candidates with more resources in terms of funds and staff to retain the sites and maintain election signs.

Recommendations

18. Conditions, including temporal restriction relating to the display of election signs, can be imposed by Auckland Transport when specifying (by resolution under the Bylaw) public sites suitable for the display of election signs and should address concerns raised regarding this issue.
19. It is noted Auckland Council has indicated it proposes a review of its signage bylaw and will look to make a joint bylaw with Auckland Transport controlling both the display of both general signage and election signs. Such a review should provide an opportunity to address any remaining concerns that submitters have in regards to reduction in amenity should there prove to be an unexpected proliferation of election signs.
20. The temporal restriction should be removed to ensure the Bylaw is consistent with BoRA rights. The Bylaw as made in 2013 imposed a temporal restriction only to public sites. The Bylaw was amended in 2014 to extend the temporal restriction to private sites as the distinction was causing confusion for candidates. Accordingly, it is recommended the proposal be adopted and clause 7(1)(aa) of the Bylaw removed in its entirety.

Submission Topic 2 - Illuminated, reflective and Changeable Message Signage

Proposal as publicly notified

21. The Proposal proposes the amendment of the Bylaw by including a definition of changeable message signage and prohibiting the use of such signage as well as to clarify the prohibition relating to the use of reflective materials on election signs.
22. The Proposal will propose the prohibition of any form of illumination of an election signs which would affect amenity and traffic safety.

Matters raised in submissions

23. Submitters favoured such amendment. One submitter requested that the proposed amendment relating to illuminated signs be extended to prohibit any illumination rather than the proposed wording limiting the prohibition to illumination which adversely affects surrounding amenity and traffic safety.

Recommendations

24. The restriction relating to illumination of election signs is only relevant to commercial type billboards. It is reasonable such billboards be allowed illumination subject to the restrictions provided in the proposal. Accordingly, it is recommended that the proposal be adopted, as proposed.

Submission Topic 3 – Obstruction of Footpath or Road

Proposal as publicly notified

25. It is proposed the Bylaw is amended by changing the current generic prohibition of signs being displayed in any way that endangers public safety to more specific prohibition around placement of signs that unreasonably obstruct or hinder safety and movement of persons using the road or footpaths.

Matters raised in submissions

26. Submitters were in favour of this amendment. The NZ Police noted that in absence of the definition of “footpath” and that election signs would be erected on verges which could endanger public safety. Two submitters noted that the use of “unreasonably” would create ambiguity.

Recommendation

27. The approved public sites made under the Bylaw require signs to be set back 500mm from a footpath, cycle path, vehicle crossing or roadway which addresses the safety concerns raised in regards to signs placed on verges. The use of “unreasonably” an objective standard, affords discretion to enforcement officers in relation to compliance and is considered non-contentious. Accordingly, it is recommended that the proposal be adopted, as proposed.

Submission Topic 4 – Obstruction of traffic control devices

Proposal as publicly notified

28. The Proposal also included a number of minor amendments to the treatment of election signs which interfere with traffic control devices adding detailed and specific restrictions on the placement, shape and colour of election signs in relation to traffic control devices.

Matters raised in submissions

29. No submissions opposed this proposed amendment. The NZ Police raised concern that the drafting could lead to signage that would obstruct traffic control devices where they are of a different colour to the traffic control device and suggested removal of the reference to colour and include a complete prohibition on signage which in any way obstructs or impairs the view of a traffic control device.

Recommendation

30. The Bylaw currently prohibits the display of election signs which 'obscure any traffic control device'. Following consideration of NZ Police's submission, it is believed the proposed amendments have potential to create ambiguity in their application and wording can be removed in regards to the placement of election signs in the vicinity of a traffic control device which are of the same colour as this can be addressed when specifying public sites under the Bylaw which are suitable for the display of election signs. It is recommended that proposed Bylaw clause 7(1)(ma) is amended by removal the words 'or form the background or foreground to, or appear alongside' and 'of similar colour when viewed by the driver of an approaching vehicle'.

Submission Topic 5 - Reference to Austroad Guides

Proposal as publicly notified

31. The Proposal amends the Bylaw by setting the standard of determining whether the signage obstructs safe line of sight as being the standards prescribed under the Austroads Guide to Road Design.

Matters raised in submissions

32. A Submitter raised concern with the complexity of the Austroads Guide to Road Design and the issue of the enforcement team at Auckland Council having to determine whether the election signs complied with that guide. A submitter preferred the use of local guidelines and noted that the 'Auckland Transport's Roads and Streets Framework, and Transport Design Manual' should be used following their approval by Auckland Transport.

Recommendation

33. Austroads Guide to Road Design was included in absence of an approved local guideline. Auckland Transport's Transport Design Manual is to be presented to the Auckland Transport Board for consideration at its October meeting. The amendment to Bylaw if adopted will have no effect on the general election as its formal effect of 1 August 2017 will be during the nine-week period prior to a general election during which the provisions of the Electoral Act 1993 regarding the display of election signs will override those of the Bylaw and so the Bylaw as amended will have no practical effect until the next relevant election held following the general election
34. Following consideration of submissions, it is recommended that the guideline material be amended to refer to the Auckland Transport's Transport Design Manual as it will be a finalised and the most relevant guideline at the time of the next applicable election.

Submission Topic 6 – Other comments received

Matters raised in Submissions

35. Submitters noted a need to make clear in the Bylaw under clause 6 that Auckland Transport still reserves the right to set a temporal restriction on a site by site basis.
36. One submitter noted that there should be a height restriction imposed on signs placed on private sites. Currently clause 8(f) of the Bylaw restricts heights on public sites to 3m.
37. Three submitters noted a need for stronger penalties for candidates who do not comply with the Bylaw including a fine for not removing election signage within a certain time after the election day.
38. One submitter noted that election signs which had been defaced should be removed.

Recommendations

39. Adopt amendments as proposed and note these issues to be considered in any future review of the Bylaw.

Financial

40. No direct financial impact is identified for Auckland Transport to make the Bylaw. The administration and enforcement of the Bylaw will be undertaken by Licensing and Compliance at Auckland Transport in accordance with their current delegation.

Stakeholder Engagement

41. Public notice of the proposal to amend the bylaw including the proposed amendments were published in accordance with the requirements of the LGA'02. Auckland Transport, in accordance with section 22AD(2) of the Land Transport Act 1998, notified affected parties (Auckland Council, Police, the NZ Transport Agency and major political parties) and invited submissions from those parties and the public on the proposed amendments via the Auckland Transport website.

Customer Impact

42. The proposed amendments are expected to clarify the election signs process and candidate requirements where ambiguities have been identified. The removal of temporal restrictions will be consistent with candidate rights in relation to private sites.

Next steps

43. If the proposed amendment to the Bylaw is made by the Auckland Transport Board, the Minister of Transport will be notified in accordance with section 22AB(4) of the LTA and public notice given confirming the date on which the amended Bylaw will come into effect accordance with section 157 of the LGA'02.
44. Licensing and Compliance Services at the Auckland Council will continue to be responsible for administering and enforcing the Bylaw in accordance with its current delegation.

Attachments

1	Proposed Amendments to Election Signs Bylaw 2013 as published for consultation
2	Election signage bylaw feedback analysis summary
3	Auckland Transport Election Signs (Amendment No. 3) Bylaw 2017
4	Auckland Transport Elections Signs Bylaw 2013, as amended

Document ownership

Submitted by	Mario Zambuto General Counsel	
Recommended by	Richard Morris Chief Financial Officer	
Approved for submission	David Warburton Chief Executive	

Glossary

BoRA	New Zealand Bill of Rights Act 1990
LGA'02	Local Government Act 2002
LTA	Land Transport Act 1998

Appendix 2: Feedback form

Feedback form

Proposed amendments to Auckland Transport
Election Signs Bylaw 2013



All feedback must be provided by **midnight on Monday 26 June 2017**

Please go to AT.govt.nz/haveyoursay (or call us on 09 355 3553) to see the proposed amendments to Auckland Transport Election Signs Bylaw 2013. You can also provide feedback at AT.govt.nz/haveyoursay

1. What do you think about the proposed amendments?

FOLD

FOLD

2. What changes would you make to the proposed amendments?

FOLD

FOLD

3. Would you like to see any additional amendments?

You are welcome to attach additional pages (or provide feedback online) if you need more space.

Appendix 3: AT Responses to Key Themes

Submitters suggested a wide range of changes to the proposal. We have collated and responded to all suggestions identified in the feedback, organised by theme.

Design suggestion and illustrative quotes	Number of submitters	AT response
Time restrictions		
<p>Don't remove clause 7 (1) (aa)</p> <ul style="list-style-type: none"> • "I think that it looks like you may have mistakenly thought that people wouldn't mind having election signs up all the time." • "I would not remove the time limit for election signs on the public sites." • "Against the removal of 1aa." • "I would like to see some control mechanism replacing this rather than outright deletion." • "Retain this clause. There are cases where election-type signs are permanent. Why is this clause being deleted?" 	36	<p>The restriction in the bylaw (clause 7 (1) (aa)) limiting the display of election signs to the nine-week period preceding a general election, local election, or election for the Auckland Energy Consumer Trust, has been removed.</p> <p>The review of the bylaw came about as a result of a legal challenge to our ability to take a blanket approach to restricting people (or groups of people) from expressing their views in a public manner.</p> <p>Our legal advice is that such blanket temporal restrictions (on public and private sites) could pose some inconsistencies with the rights of freedom of expression under the Bill of Rights Act 1990.</p>
<p>Clarify/change time</p> <ul style="list-style-type: none"> • "Perhaps a longer time-frame would be helpful? For example, 12 weeks instead of 9 weeks? Just not the complete removal of the temporal restriction." • "Through the deletion of this clause it becomes unclear what the period prior to the election is defined as for advertising purposes. This creates uncertainty around when candidate advertising can commence. Some clarity and reference to the Electoral Act 1993 (by way of the General Election 2017 Candidate Handbook) may resolve this issue." • "In our experience, candidates and parties are keen to erect signs as soon as they are permitted under bylaws. As there are limited public sites made available for such signage, the "popular" sites are in high demand, and all candidates and parties try to ensure they have visibility in the public eye for as long as possible..." 	17	<p>Consequently, there is now no time restriction.</p> <p>There are alternate control mechanisms, the most important being that a resolution must be made by Auckland Transport to establish a specified public site for election signs. The resolution can, if necessary, impose a temporal restriction on a public site. This allows a case by case approach where each proposed public site can be assessed as to whether it will be demonstrably justified that a temporal restriction on election signs is necessary for the safety of vehicles and pedestrians.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<p>The community expects there to be an election period and this expectation is reflected in relevant legislation:</p> <ul style="list-style-type: none"> a) The Electoral (Advertisements of a Specified Kind) Regulations 2005 define a period of nine weeks prior to a general election where any other regulations, such as bylaws, are overridden to allow election signs. b) The Local Electoral Act 2001 includes an assumption that, for the purposes of declaring election expenses, electoral activity takes places within a period of three months prior to an election. The Act refers to this period as the 'applicable period' for electoral activity. <p>The Office of the Auditor-General has issued communication guidelines to local authorities which specifically include guidance about the appropriate use of council resources in the three months prior to an election which the guidance refers to as the 'pre-election period'. This period is based on the defined 'applicable period' in the Local Electoral Act and includes an assumption that this is the period when election campaigning will take place.</p> <p>Further, candidates and parties expect there to be a defined period when they can erect election hoardings... We recommend retaining clear guidance for candidates, parties and the public on the length of time that election signs may be displayed."</p>		
<p>Visual pollution / distraction concerns</p> <ul style="list-style-type: none"> • "The current Bylaw is at best tolerated but the visual pollution to the likes of Dove Myer Robison Park is seen as significant both at the outset of the nine-week provision and our community is well pleased to see the signs go on the day before polling. They are often defaced and/or physically damaged which exacerbates the level of visual pollution...The potential (and ever growing practice) for privately owned fences/walls to be used in an unlimited temporal fashion for electioneering also creates significant urban amenity loss." • "Long term signs would be subject to deterioration and become unsightly." • "Election signage already takes over public land, increasing visual pollution and decreasing the amenity of local areas, as well as distracting drivers, for far too long a period prior to elections, and I would not support anything that increased this period." 	17	<p>We have taken on board the concerns of many submitters over the potential visual pollution created by excessive signage, and the risk of signage remaining in place for long periods becoming unsightly or distracting.</p> <p>These concerns reflect a more general issue around the visual pollution presented by all manner of signs on both public and private property.</p> <p>We have additional means at our disposal to deal with these issues, other than through the revised bylaw.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<p>Will advantage better-resourced candidates</p> <ul style="list-style-type: none"> • "Provision for long term signs will unfairly advantage those parties and candidates with the greatest resources in terms of funds and campaign workers needed to maintain and refresh their signs." • "Larger parties will shore up the best sign areas for themselves and keep newcomers from being able to participate." 	7	<p>This is not a network safety management issue; it is not Auckland Transport's function to impose restrictions to regulate candidate spending. That is the Electoral Commission's function.</p>
<p>Sign damage/safety concerns</p> <ul style="list-style-type: none"> • "Even at the moment with them only being up for two months a lot of them will be damaged and cause a risk to my kids when they are playing on the park. Once I had to drag one back off the road when it had blown down and would have been in the way of people on bikes. If they are allowed to be up all the time, then a lot more of them will get damaged." • "These sites are not safe for permanent 3m2 signs." • "Sign maintenance because of vandalism is costly." • "The lack of a temporal restriction is also likely to result in a greater opportunity for signs and their supporting structures to become damaged, through weather and vandalism... The bylaw requires the signs and their structures to be securely braced and anchored, but their temporary nature necessarily means that they are prone to damage, with the potential for parts to come loose. This results in traffic hazards being created by the debris." 	6	<p>Election Sign Bylaw clause 10 deals with the issue of damaged signs.</p>
<p>Will put public off elections</p> <ul style="list-style-type: none"> • "Near permanent signs would generate widespread antipathy and a likely campaign to ban them entirely." • "The public tolerance of signs in public places soon fades after a couple of weeks." 	5	<p>This is an issue that those seeking to place signs will need to consider, and is not something Auckland Transport should regulate for.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<p>Cost of maintenance concerns</p> <ul style="list-style-type: none"> • "There would be unnecessary and undesirable costs required of Auckland Transport for monitoring, seeking compliance and enforcing this bylaw if enforcement was required on a permanent basis, and the signs are more likely to deteriorate and cause hazards because they are up longer which will further increase the enforcement required." • "During this election period, the council's bylaw enforcement team receive many complaints regarding bylaw breaches, including disputes between parties and candidates... The longer the period that signs are permitted, the greater the resourcing implication for the council." 	4	<p>No additional resources will be allocated to policing election signage. Ratepayers will not be financially disadvantaged as a result of the signage bylaw.</p>
<p>Differentiate billboards from other private signage</p> <ul style="list-style-type: none"> • "Don't remove the time limit from private sites or the public ones. Just take it away from billboards if you need to make a change at all." • "Any rulings about commercial billboards need not and should not flow on to rules about management of safety and visual amenity in the road reserve and adjoining park reserves for which you have responsibility to develop and enforce appropriate requirements." • "Only remove the time limit from commercial billboards and private sites." 	3	<p>The review of the bylaw came about as a result of a legal challenge to our ability to take a blanket approach to restricting people (or groups of people) from expressing their views in a public manner.</p> <p>Our legal advice is that such blanket temporal restrictions (on public and private sites), could pose some inconsistencies with the rights of freedom of expression under the Bill of Rights Act 1990.</p> <p>Consequently, there is now no time restriction.</p>
<p>Other</p> <ul style="list-style-type: none"> • "It is clearly counterproductive to the stringent residential zoning Bylaw restrictions around 3rd party billboard/signage advertising." 	5	<p>The aim of the amendments made to the bylaw is to ensure clarity with the controls set out in the election signs bylaw, for the purposes of the direct safety of vehicles and pedestrians using the Auckland transport system.</p>
<ul style="list-style-type: none"> • "It is bad enough that a whole lot of them have signs up at the moment pretending to be about a public meeting when they are really just trying to get in early with their election signs." • "Any candidate who, in this day and age needs to rely on a meaningless sign with their face plastered all over it in order to get elected probably shouldn't be standing for public office at all!" 		<p>The aim of the amendments made to the bylaw is to ensure clarity with the controls set out in the election signs bylaw, for the purposes of the direct safety of vehicles and pedestrians using the Auckland transport system.</p> <p>These comments relate to issues that are outside of the functions of Auckland Transport as a road controlling authority.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
Changeable and illuminated signage		
<p>Like amendments to clause 5 (1), clause 7 (1) (d), (j), (m)</p> <ul style="list-style-type: none"> • "I agree with the other proposed changes as being sensible clarifications of what was intended and eliminating potential loopholes. There will be argument towards allowing signage with the use of technology such as changeable etc but I agree with eliminating these for firstly the 'visual pollution', secondly the 'distraction for drivers' and thirdly the increasing costs which then side-line lower budget candidates and hence drive the cost of election advertising and create an unfair playing field." • "The amendments proposed to paragraphs (d), (j), and (m) provide valuable clarifications and / or elaboration of the rules to rule out undesirable signs or hazards." • "Support the proposed changes to clause 7 (m) which clarifies that changeable signs are not permitted." 	6	Thank you for your feedback.
<p>Change 5 (1)</p> <ul style="list-style-type: none"> • "Ban electronic signs or any sign that changes electronically or mechanically." 	1	The Election Signs Bylaw does not allow for changeable messages and does not cover other types of signage.
<p>Change 7 (1) (m), (o)</p> <ul style="list-style-type: none"> • "[Suggest] more clarity around how those defined as changeable signs would relate to 7.1.m and o." • "Do not support the proposed amendments to clause 7 (o) regarding the use of signs which have lights, lasers or illumination where that illumination may adversely affect the amenity of the surrounding area or traffic safety. These edits make the clause ambiguous and open to challenge as they only restrict illuminated signs that may adversely affect amenity, or traffic safety...Amend clause 7 (o) to restrict the use of flashing or revolving lights, lasers, or any other method of illumination." 	2	<p>The Election Signage Bylaw includes restrictions for election signage including safety, visibility, movement, and distracting aspects, such as reflective or fluorescent material, or any changeable messages.</p> <p>Changeable message signage has been defined under clause 5(1). It is only relevant to clause 7(1)(m) as signage or part of a sign that is entirely disallowed.</p> <p>Election signs, other than commercial billboards, are restricted from using any form of illumination under clause 7(1)(k) and therefore clause 7(1)(o) applies only to commercial billboards, which are reasonably allowed some form of illumination.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
Obstruction of footpaths		
Change 7 (1) (d) <ul style="list-style-type: none"> "Under Clause 7 - 1 - D I would like to see shared paths and cycleways listed with footpaths." "Would also remove 'unreasonably' from 7.1.[d]." "In the absence of an interpretation of the term 'footpath', Police is concerned that this amendment may result in election signs being erected on verges, which may not obstruct or hinder the safety of a roadway or foot, yet may endanger the public's safety (2.1(d)). Police would also like to note that the term 'unreasonably' is ambiguous, which may result in challenges if any enforcement action undertaken." 	3	<p>The use of 'unreasonable' as an objective standard is a common discretion that is given to enforcement officers in relation to compliance. Furthermore, the public sites approved for election signs include a rule that requires signs to be set back 500mm from a footpath, cycle path, vehicle crossing or roadway, this addresses concerns over signs on verges. 7(1)(d) does not allow signs to hinder "any part of the road" of which shared paths and cycle ways are included.</p>
Obstruction of traffic control devices		
Like 7 (1) (g), (ma) <ul style="list-style-type: none"> "[We] support... the deletion of 'nor obscure any traffic control device' as the new paragraph (ma) covers this scenario." 	1	<p>Thank you for your feedback.</p>
Change 7 (1) (g), (ma) <ul style="list-style-type: none"> "[We are] concerned that the removal of 2.1(g) allows for an election sign to be erected that may obscure traffic control devices. Although the new subsection 2.1(ma) somewhat addresses this, the section still allows for a traffic control device to be obscured by a sign of a different colour to that of the traffic control device. [We] would like to see 2.1(ma) amended to read: 'election signs must not obstruct, obscure, or impair the view of, or form the back or foreground to, or appear alongside, any traffic control device when viewed by the driver of an approaching vehicle.'" "(g) Please add 'nor within 100m of an intersection in urban areas and 200m from rural intersections'. Refer RTS.7 Road Traffic Standards 07 Advertising signs 5.3.1 and Traffic Control Devices manual Pt3 Advertising signs 5.5 OR add a new clause." 	2	<p>We agree that the wording has caused ambiguity and have amended the clause accordingly.</p> <p>7(1)(ma) deals with placement of signs that obscure traffic control devices and 7(1)(n) deals with restricting the display of signs from looking similar to a traffic control device.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
Reference to Austroads Guide		
<p>Change 7 (1) (g)</p> <ul style="list-style-type: none"> • "2(1)g) - Austroads Guide to Road Design: We question why Austroads Guide to Road Design is referred to as an authoritative source in this clause. Auckland Council's Roads and Streets Framework, and Transport Design Manual, which is our local guide [which] will be confirmed by Auckland Transport in September, making Austroads Guide to Road Design redundant. If this is a matter of the timing of confirmation for the Auckland Council productions, this should be explained in supporting documentation." • "[We] support... the addition of 'determined according to the Austroads Guide to Road Design'. However, if the bylaw references a guide there should be a link to make it easy to access the information." • "The proposed amendment to clause 7(1)(g) includes a reference to the Austroads Guide to Road Design. Signs must not obstruct the safe line of sight of any pedestrian crossing, corner, bend, intersection, vehicle crossing or private entrance, determined in accordance with this Guide. The Guide is a complex document, and the proposed amendment would require the general public to read, interpret, understand and then apply the requirements of this document into the placement of signs at any location. Further, bylaws enforcement staff would require training to understand, interpret and apply the document when assessing each sign at any location. We consider the assessment of road safety issues in clause 7(1)(g) should be left to officers' discretion. If the amendment is made, we respectfully ask AT to review each of their existing approved election sign sites in accordance with guidelines incorporated in the Austroads Guide to Road Design, and either confirm that signs on each site would comply, or remove the sites from the approved list." 	3	<p>Austrads were used at the time the amendments were proposed as it was the most applicable standard. At the time the amendment was presented to the Auckland Transport board, we were confident that the Auckland Transport's Transport Design Manual would be finalised, approved and published in time for the next applicable election.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
Other paragraphs in Election signage bylaw		
<p>Like 5 (1)</p> <ul style="list-style-type: none"> "Continue to include the Auckland Energy Consumer Trust in the definition of 'Election'." 	1	Thank you for your feedback.
<p>Change 6 (1) (a)</p> <ul style="list-style-type: none"> "We note your explanation that election signage on public sites is always at the discretion of Auckland Transport under clause 6(1)(a), which may allow for a temporal restriction for public sites. In our view, the restriction needs to be clear and transparent for all candidates and parties, and is communicated well in advance." 	1	A blanket temporal restriction has been identified as having possible inconsistencies with the right of freedom of expression under the Bill of Rights Act 1990. The imposition of any temporal restriction must be carefully considered and done so on a case by case basis.
<p>Change 6 (2)</p> <ul style="list-style-type: none"> "We recommend that additional wording be added to clause 6 (2), making it clear that Auckland Transport may specify the period of time during which election signs can be displayed on public sites." 	1	This is not the intent of the bylaw. We retain the ability to specify by resolution, a temporal restriction on a specific site, however this is made on a case by case basis and for safety reasons.
<p>Change 7 (1) (a)</p> <ul style="list-style-type: none"> "Removing the election sign the night before the election makes it seem the election is over, not that you can vote on election day - particularly for local elections. I favour the removal of that clause to say, removed the day after the election." 	2	This provision mirrors the provisions in the Electoral Act 1993.
Other suggested amendments		
<p>Clarify signage types / rules</p> <ul style="list-style-type: none"> "Better clarification of how the bylaw covers private spaces, better clarification of what constitutes an election sign and the difference between advertising vs information." 	9	As noted elsewhere, the proposed limitations are on the effects of the signage, not the impact.

Design suggestion and illustrative quotes	Number of submitters	AT response
<ul style="list-style-type: none"> • "Restrict the faux signs that are appearing all over the place purportedly advertising a public meeting with an MP, but really just being a way for the parties to get extra advertising time and space." 		<p>We have used a similar definition as that in the Electoral Act 1993 for "election advertisement", signage that advertise a public meeting with a MP does not meet the definition of an election sign, and as such is regulated under ordinary signage bylaws. It is not Auckland Transport's function to regulate whether signage about a meeting with a MP should be considered election advertising.</p>
<ul style="list-style-type: none"> • "Last election a candidate and supporters were standing on road reserve (at Te Atatu off ramps) waving banners in face of drivers - these distractions should not be allowed (similar in impact to moving or reflective displays on posters/billboards)." 		<p>People holding placards may indeed become a hazard or a nuisance, but do not meet the definition of a sign. These would best be dealt with through other legislation, such as that pertaining to nuisance in a similar way to window washers.</p>
<ul style="list-style-type: none"> • "Not sure they go far enough. What Victoria Crone tried to do was sneak around the rules, this is like rich people trying to steal democracy away from ordinary citizens...we cannot let people like Victoria Crone try and cheat the system again." 		<p>It is not Auckland Transport's role to create regulation based on candidate income.</p>
<ul style="list-style-type: none"> • "Limit candidates to one sign per site with max size 2 square metres in own election area only." 		<p>It is not Auckland Transport's role to regulate the democratic process. We regulate form and placement of election signs for the safety of vehicles and pedestrians on the Auckland transport system.</p>
<ul style="list-style-type: none"> • "I am concerned that there [are] no sign size requirements for commercial hoardings as this gives well-financed election candidates and political parties an unfair advantage in advertising candidates. Commercial hoarding sites should be the same as others." 		<p>This is not a network safety management issue; it is not Auckland Transport's function to impose restrictions to regulate candidate spending. That is the function of the Electoral Commission.</p>
<ul style="list-style-type: none"> • "At some intersections there can be a plethora of elections signs. Note below reference to the Traffic Control Devices manual Pt3 Advertising signs 5.5." 		<p>7(1)(ma) deals with placement of signs that obscure traffic control devices and 7(1)(n) deals with restricting the display of signs from looking similar to a traffic control device.</p>
<ul style="list-style-type: none"> • "The lack of specification relating to community signage is an area that we feel could be further detailed in the proposed bylaw...provide the rationale behind the decision to permit community signage to occupy the same locations as elections signage, with no guiding regulations or parameters." 		<p>That would be covered by the Auckland Transport and Auckland Council Signage bylaw and is not relevant to the Election Signs Bylaw.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<ul style="list-style-type: none"> "Currently, there are no height restrictions for election signs on private sites provided in clause 9 of the bylaw. In our experience, particularly tall signs generate complaints from the public and candidates. The only relevant control that exists is contained in the Unitary Plan, in respect of height to boundary restrictions. However, this can still result in signs over 3 metres in height, which is the restriction imposed under clause 8 for public sites. We recommend that Auckland Transport consider including a restriction on height for election signs on private sites, which provides consistency with the limit set for public sites i.e. 3 metres." 		<p>This is not a network safety management issue; it is not Auckland Transport's function to impose height restrictions to regulate signs on private property as it does not pose network safety issue.</p>
<p>Ban election signage on public property / all locations</p> <ul style="list-style-type: none"> "All signs on the road side should only be for road use or safety reasons - i.e. no distractions to safe driving...Election signs and all 'advertising' should be banned." "Election signs should not be allowed on any public property - private property only." 	5	<p>Auckland Transport is not able to restrict people (or groups of people) from expressing their views in a public manner can only go as far as what is reasonably justified.</p> <p>We endeavour to regulate as far as what is necessary to ensure vehicle and pedestrian safety within the Auckland transport system.</p>
<p>Penalties</p> <ul style="list-style-type: none"> "Clarify non-compliant signs will be removed and thrown away." "Provide strong penalties for campaigns that wilfully ignore these laws. In the 2017 by-election, one candidate blatantly stapled her signs and tinsel to her opponents signs. And she got away with it without any punishment. Also, seasoned politicians put real estate signs up and down Ti Rakau on the berms and got away with that. They have done that for 3 election cycles without punishment. This gave them unfair advantage. Perhaps you need to have candidates tick a page of the most important parts of the bylaws so they can be held accountable." "Add fines for not removing signs 2 working days after the election." 	3	<p>Currently enforcement is limited to removal of election signage and penalties are limited to fines of up to \$500 for breach of the bylaw. The issue of fine amounts and other remedies can be revisited at a later date should this prove necessary.</p>
<p>Other</p> <ul style="list-style-type: none"> "Signs that are defaced with offensive graffiti to be removed at the owner's expense." 	5	<p>This matter of enforcement is already addressed in the Bylaw (Clause 10). We have delegated the enforcement of our Bylaw to Auckland Council, which includes the ability to recover reasonable costs.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<ul style="list-style-type: none"> • "Recyclable or biodegradable materials only to be used." 		<p>The aim of the amendments made to the bylaw is to ensure clarity with the controls set out in the election signs bylaw for the purposes of the direct safety of vehicles and pedestrians using the Auckland transport system. Regulating the types of materials used in this context would be outside the boundaries of our role as a road controlling authority ensuring safety on roads.</p>
<ul style="list-style-type: none"> • "In developing its bylaw Auckland Transport must ensure it does not contravene the Electoral Act." 		<p>The amendments we have made do not contravene the Electoral Act 1993.</p>
<ul style="list-style-type: none"> • "Concern regarding Auckland Transports ability to make a bylaw regarding election signs bylaw and requests clarification as to Auckland Transports jurisdiction on this matter in relation to the Governing Body." 		<p>Auckland Transport's empowering legislation, the Local Government (Auckland Council) 2009 Act (LGACA), sets our functions and powers. This includes the functions and powers of a road controlling authority under the Land Transport Act 1998 (LTA). Under s22AB(1)(y) of the LTA we can create bylaws to regulate, control or prohibit the display of election signs.</p>
Non-bylaw suggestions		
<p>Election sign site lists</p> <ul style="list-style-type: none"> • "Include in the list of election sign sites for Albert-Eden Local Board area a time restriction, for election signs located on specified public sites... <ul style="list-style-type: none"> - Auckland Transport should work with New Zealand Transport Agency to ensure that public site C-AE3 within the Albert-Eden Local Board area is reinstated as quickly as possible. This site has been unavailable for use due to the state highway 16/20 construction works and is the only public site in that area. This has previously been requested by the Albert-Eden Local Board. - Auckland Transport should note that the recent upgrade to Potters Park has resulted in less grass space at public site C-AE4, which means there is no longer suitable space for signs at that location." • "Include in the list of election sign sites for Waitemata Local Board area a time restriction, for election signs located on specified public sites." 	2	<p>The schedule of sites will be reviewed.</p> <p>Other points are noted.</p>

Design suggestion and illustrative quotes	Number of submitters	AT response
<p>Other</p> <ul style="list-style-type: none"> • "Via the 3rd Party advertising Bylaw provision - strengthen the teeth of this clause to put a stop to election signs on private properties." • "I think anyone ought have the right to advertise for an election or have a banner up so long as it ain't racist, sexist, abusive or discriminatory basically adhering to 'common law'.... [Add] The right to protest so long as it peaceful and commences with the above... [Other changes] Anyone and everyone to have the right of speech." 	<p>3</p>	<p>The main purpose of the bylaw is to ensure that safety issues are considered, and amenity values are retained when candidates erect election signs.</p> <p>The amendments endeavour to clarify this purpose and restrict the bylaws from regulating election signs for reasons other than safety and amenity.</p> <p>It is not Auckland Transport's function to regulate what signs can be placed on private property beyond safety and amenity.</p>