

Practice and Guidance note

Signage Bylaw 2022

Disclaimer

The information in this practice and guidance note is, according to Auckland Council's best efforts, accurate at the time of publication. Auckland Council makes every reasonable effort to keep it current and accurate. However, users of the practice and guidance note are advised that:

- *the information provided does not alter the Auckland Unitary Plan, Auckland Council District Plan - Hauraki Gulf Islands Section, Resource Management Act 1991 or other laws of New Zealand and other official guidelines and requirements*
- *this document sets out general principles which may be used as guidance for matters relating to the interpretation and application of the Auckland Unitary Plan and other statutory instruments; it is not intended to interfere with, or fetter, the professional views and opinions of council officers when they are performing any function or exercising any power under the RMA. Each consent application will be considered on a case-by-case basis and on its own merits*
- *Users should take specific advice from qualified professional people before undertaking any action as a result of information obtained in this practice and guidance note*
- *Auckland Council does not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading or reliance placed on Auckland Council because of having read any part, or all, of the information in this practice and guidance note or for any error, or inadequacy, deficiency, flaw in or omission from the information provided in this publication.*

1 Introduction

The Signage Bylaw 2022 (the Bylaw) came into force on 26 May 2022. This bylaw (and associated controls) combines and replaces the Auckland Council and Auckland Transport Signage Bylaw 2015 and the Auckland Transport Election Signs Bylaw 2013.

The bylaw contains:

- specific rules about free-standing, verandah, wall-mounted, window, portable, stencil, poster, banner, real estate, event, election and vehicle signs
- special rules for signs in major recreational facility zones and open space zones, in addition to signs about commercial sexual services
- general rules that apply to all signs about:
 - illumination
 - changeable messages
 - public safety
 - nuisance
 - movement of traffic and vessels.

2 The Bylaw and the Auckland Unitary Plan (Operative in Part) (“AUP (OP)”)

The Signage Bylaw is intended to be read in conjunction with, and complement, the Auckland Unitary Plan (Operative in Part) (“**AUP (OP)**”). Certain signage is intended to be controlled under the AUP (OP) (billboards, comprehensive development signage, signage on heritage features), with the remaining signage types to be controlled by the Bylaw.

This will result in situations where a sign may require:

- an approval under the Bylaw;
- a Bylaw approval and resource consent; or
- a resource consent only (complies with the Bylaw).

3 Signage covered by the Bylaw

The following publicly visible signs are covered by the Bylaw.

Permanent signs	Temporary signs
<ul style="list-style-type: none">• Poster board sites• Window signage• Wall mounted signage• Freestanding signage• Veranda fascia and under veranda signage	<ul style="list-style-type: none">• Poster board signs• Portable signs (e.g. ladder boards, sandwich boards, flags)• Real estate signage• Stencil signage• Community event and regional event signage• Vehicular signage

4 Signage not covered by the Bylaw

The Bylaw does not cover:

- **Existing Bylaws in place**

Signage on State Highways are already controlled by New Zealand Transport Agency (Signs on State Highways Bylaw) 2010 - signage on State Highway networks

- **Excluded from Bylaw consideration**

Clause 6(2) of the Bylaw states that the following publicly visible signs are excluded by the Bylaw control:

Billboards – the AUP (OP) will control the location and size of billboards.

Comprehensive development or redevelopment signage - for comprehensive developments and re-developments, signage will be dealt with as part of the resource consent under the AUP (OP).

Signage on buildings, objects, properties and/or special value – the Auckland Council District Plan Hauraki Gulf Islands Section 2018.

Signage on, or in close proximity to a scheduled historic heritage place – the AUP (OP) will control provisions relating to scheduled historic heritage places, including rules relating to signage on, or on the same site as historic heritage places.

5 Decision making under the Bylaw

Some types of signs require an approval of the relevant authority. Approvals are to be considered taking into account the matters specified in clause 32(1) of the Bylaw. An approval may be subject to the conditions set out in clause 35 of the Bylaw.

Important: applicants for a Bylaw application do not have a right to appeal or object to any decision (other than a judicial review), nor do they have a right to a hearing prior to any decision being made by council. Any report and decision need to reflect this lack of recourse and be fair, proportional and robust.

A reminder - While all applications should be expedited to a decision, as Bylaw applications are not subject to any statutory timeframes or discount regulations, a resource consent could take priority over a Bylaw application where the resource consent application is on the same/similar number of processing days.

6 Processing scenarios

For the Resource Consents Department there are three likely processing scenarios for a sign application:

One: an application for approval from the Bylaw only,

Two: an application for both a resource consent and approval from the Bylaw, or

Three: an application for resource consent only under a plan.

6.1 Processing scenario one: Bylaw application only

If a planner is processing a Bylaw application, the key parts of the Bylaw that inform their assessment and report / recommendation are:

Part 1: purpose of the Bylaw and definitions of key terms.

Part 2: requirements for all publicly visible signage, including signage in the coastal marine area and content of signage.

Part 3: lists the specific signage types covered by the Bylaw.

Part 4: covers signage uses, such as signage in open spaces, commercial sexual services, signage, vehicle signage and regional and major event signage and major recreation facilities

Part 5: covers exemptions and approvals, respective assessment criteria when each type of application is required and establishes the ability to impose conditions.

Schedule 1: specifies further controls for signs including luminance, sign dimensions, numbers and locations and complements Part 3.

Clause 33 of the Bylaw sets out the relevant matters that may be taken into account. An approval can only be granted if the approval will not significantly prejudice the purpose of the Bylaw and if the council is satisfied that one of the circumstances under clause 34 applies. The purpose of the Bylaw is detailed in Part 1, clause 4.

Note that this is not an RMA assessment; it is simply an assessment against the provisions of the Bylaw.

Decision and Conditions

Clause 34 of the Bylaw provides that approvals may be granted or refused. The decision should clearly set out the reasons for the decision. If consent is to be granted, then conditions may be imposed in terms of clause 35. The following conditions are to be imposed on all decisions to grant an approval:

- 'activity in accordance with plans' condition
- a condition advising applicants that the approval should be given effect to within 12 calendar months of the date of the decision or the decision will lapse
- a condition requiring the removal of the signs within 60 working days of the date of the associated business ceasing to operate.

Other conditions that may be imposed may relate to lighting reports post-installation of illuminated signage, or expiration of the exemption/approval after a specific period (where there are specific reasons why an unlimited permission is inappropriate). The planner will discuss any proposed conditions with their team leader or principal planner prior to submitting their report and recommendation.

6.2 Processing scenario two: resource consent and Bylaw application combination

If a planner is processing an application where a resource consent under the AUP (OP) signs rule and a Bylaw application is required:

- A decision is required for each application
- They need to prepare only a single report to inform both decisions
- Keep to statutory RMA timeframes
- Split decisions – in the unlikely event that they are compelled to grant resource consent but are looking to recommend 'decline' for the Bylaw application, they will speak to their team leader and principal planner as early as possible to determine the appropriate course of action

Remember – resource consent decisions can be objected to and/or appealed; Bylaw decisions cannot.

6.3 Processing scenario three: resource consent application

If a planner is processing an application where resource consent under the AUP (OP) sign rule is only required, adopt a risk-based approach.

7 Specialist input

7.1 Consultation for Bylaw applications

In addition to seeking comments from specialists that are typically used for traffic or lighting matters, the following three sources of specialist comment may also be required.

Auckland Transport is to be consulted on ALL Bylaw applications, but the type of consultation will be dependent on the planner's initial assessment of the proposal and whether or not they consider there to be any traffic safety issues. Consultation is to comprise one of two types:

- Type 1: If they consider there are no traffic safety issues, the consultation is a 'for information only' email.
- Type 2: If they consider there are traffic safety issues, the consultation is seeking comments from Auckland Transport on the proposal.

The planner should also be aware of Auckland Transport's policy regarding 'road encroachments', whether they are buildings or features such as signs.

Local and Regional Parks are to be consulted for applications on any local and/or regional park. The consultation process will also be utilised to obtain 'land owner approval'.

Auckland Harbourmaster is to be consulted for all applications for signs in or adjacent to the coastal marine area (CMA):

- that may be a hazard to navigation (clause 25(2)(a)),
- that include flashing images or is illuminated or revolving (clause 25(2)(c),
- that may be mistaken for a navigational aid for vessels on the water (clause 25(2)(b)).

For any signs adjacent to the CMA the main concern is for illuminated and flashing signs. The contact point is (harbourmaster@aucklandtransport.govt.nz) at Auckland Transport.

7.2 Consultation for all applications

In addition to the above, there are two other matters for where a planner may require specialist input:

- Development/ traffic engineers for general traffic matters (i.e. the likely impact of the sign on traffic safety and public safety, obstructions or hazards to pedestrian or vehicular visibility, access)
- Specialist environmental health officers / lighting specialists for signage illumination matters.

8 Transitional provisions

The transitional and savings provisions of the Bylaw are set out in clause 43.

The transitional provisions provide that any signage, other than portable, stencil, poster, banner, real estate, vehicle or event signage, that has been lawfully established prior to 26 May 2022, may remain in place in terms any approval previously granted, subject to clause 44.

Business rule: If any approved (but unimplemented) signage forms part of a development that meets the definition of ‘comprehensive development or development’ then it effectively already has protection from Bylaw consideration. If it does not meet that definition and has not been established, then it requires consideration against Bylaw provisions also.

Business rule: For signs that have been processed prior to 26 May 2022, that are still undetermined by that date, the planner should refer to the provisions of the new Bylaw as appropriate but not start afresh.

9 Frequently Asked Questions

Who monitors approved applications for exemptions and resource consent?

All signage involving resource consent and a bylaw exemption/approval will be monitored by the RC Monitoring Compliance teams. Copies of approved applications will be forwarded by resource consents admin through to the relevant teams.

If signage requires a bylaw exemption/approval only, the decision will be monitored by the relevant Licensing and Compliance Services’ Bylaws Team.

How should signs in a shop window, that are set back more than 0.015m from a front window be treated?

Any window sign that is set back more than 0.015m from a front window is not regulated by the Bylaw.

How are roof top signs to be considered?

Clause 6(3)(b) prohibits the display of publicly visible signage on the roof of any building, except with the approval of the relevant authority (council).

Separately, clause 6(3)(c) prohibits the display of signage if it “obscures the architectural top of a building”.

If a person wishes to display signage that does obscure the architectural top of a building, that person must apply for an exemption from the Bylaw. Some judgement

will need to be applied to interpret the term 'obscure' but generally in this context it means block the architectural top of a building from any angled view from a road or public place. Irrespective, if rooftop signage is proposed, an approval of the relevant authority is required and an application necessary.

Can there be existing use rights for signs?

Existing use rights are an RMA concept that does not apply to LGA/Bylaw regulations. However, the transitional/savings provisions of the Bylaw have the effect of creating a quasi "existing use right" in terms of the Bylaw. Clause 44 provides that signs that have been lawfully established prior to the Bylaw coming into effect may remain and do not need to comply with the Bylaw. Further, clause 29(1) requires signage associated with a business that has ceased to trade to be removed within 60 working days of the date of ceasing UNLESS the signage is structurally integral to the building or holds historic heritage value.

Is signage associated with approved (but not yet implemented) comprehensive developments excluded from the Bylaw?

Yes, signage is not covered by the Bylaw if it is to be erected as part of a comprehensive development and has been expressly considered as part of the same.

What do other permissions mean, for example landowner consent?

In some cases, in addition to approval from the council or compliance with the Bylaw, approval or permission is required from the relevant authority as the landowner. Landowner consent is a non-regulatory consent or permission that would always be required to enable the erection of a sign, notwithstanding the regulatory requirements of the Bylaw. Landowner consents sit outside the Bylaw and any person who wants to erect a sign must attain the necessary consent from the authority that manages or owns the land that they wish to use or occupy.

When are directional real estate signs allowed to be established, and when do they have to come down?

The Bylaw provides guidance regarding real estate signage at clause 15. In relation to 'directional real estate signage', the bylaw provides guidance at clause 15(4).