

### 13. ELECTION SIGNAGE - REVIEW OF COUNCIL POLICY

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#### PURPOSE OF REPORT

1. The purpose of this report is to request the Council to revoke its present policy relating to promotions and the erection of advertising signs for parliamentary and local body elections. It is proposed, once the policy has been revoked, to replace it with a summary document in an advisory format, based on the provisions of the previous policy. A copy of the present policy is attached.

#### EXECUTIVE SUMMARY

2. In the view of the Council's Legal Services Unit, the policy is largely redundant. Most of its provisions are redundant because the same things are regulated under the City Plan, the Council's Public Places and Signs Bylaw, Land Transport rules or, in the case of parliamentary election advertising, the Electoral (Advertisements of a Specified Kind) Regulations 2005 (these regulations govern the content of parliamentary election signs).
3. In addition, the present policy carries little weight, and in the case of any inconsistency is overridden by the other controls referred to in the previous paragraph.
4. It is therefore recommended that the Council consider revoking the present policy.

#### FINANCIAL AND LEGAL CONSIDERATIONS

5. There are no financial implications associated with the revocation of the existing policy.
6. The 2005 regulations:
  - (a) only control election advertising in relation to parliamentary elections, **not** local body elections; and
  - (b) only apply for the two months before polling day (and any prohibition or restriction in any other enactment, bylaw, etc in relation to the time period for display is overridden by section 221B of the Electoral Act 1993); but
  - (c) during that time they override the provisions of any enactment, bylaw or other instrument that is inconsistent with the 2005 regulations (regulation (4)(d) – provisions in bylaws etc on the content or language used in an election advertisement is also overridden under section 221B); but
  - (d) the 2005 regulations only regulate the shape, colour, design and layout of an election advertisement, **not** the location for the display of the advertisement, the number of advertisements that can be displayed in a location, or the procedures to be followed by a person before they display an election advertisement.
7. The new Land Transport rules, the Traffic Control Devices 2004, (which replace a number of the old regulations in the Traffic Regulations 1976), also contain some provisions that regulate parking, and signs on or visible from roads (see in particular clauses 3.2(5), and 4.7 of the Traffic Control Devices 2004).

8. The City Plan provides at clause 3.2.1(a) that:

*“Attention is drawn to the existence of the Christchurch City Public Places and Signs Bylaw 1992 which controls outdoor advertisements displayed in public places such as footpaths and pedestrian malls. Attention is also drawn to Council policies in the policy register regarding election campaigns, signboards in public places and advertising on bus shelters.*

***Where a conflict exists between a rule in the Plan relating to outdoor advertisements and the provisions of the bylaw or the policy register, the rule in the Plan shall be the prevailing control.***

9. It should be noted that none of the Council's requirements can control signs on a state highway (the Transit New Zealand Bylaw 1987/32 applies).
10. Under the City Plan an election sign is likely to be a “temporary outdoor advertisement”. Temporary outdoor advertisements associated with an event such as an election “may be displayed for a continuous period of **up to a maximum of 12 weeks** in any 12 month period. All temporary outdoor advertising shall be **removed within five working days after the event** to which it relates.”
11. For an outdoor advertisement to be a permitted activity (not require consent) it must comply with all the development standards in clause 3.4 and all the critical standards in clause 3.5.
12. These include controls in relation to:
- (a) the maximum area and number of advertisements;
  - (b) their height;
  - (c) the advertising not being illuminated internally or externally by intermittent or flashing lights (or any illumination at all in some areas), and not having any flashing movements or reflective material;
  - (d) support structures not being dominantly visible from roads/public places;
  - (e) verandah related and projecting displays;
  - (f) traffic safety – advertising must not obscure or confuse the interpretation of any traffic signs or controls;
  - (g) the need for a relationship of the advertising to the site it is located at unless it is temporary outdoor advertising, such as for elections.
13. The Bylaw overlaps somewhat with the City Plan because it also contains requirements in relation to the sizes of signs in various places, verandah and projecting signs, affixing signs to buildings etc, but where these are inconsistent with the City Plan then the City plan prevails, as noted above. Consent of the owner or occupier (or the written consent of the Council if the Council is the owner or occupier) is needed before any placard, banner, poster or other material with writing on it is affixed to any premises, structure or tree (clause 4 of the Bylaw). A sign, being “every advertisement or advertising device of whatever nature...visible from any public place” cannot be erected or displayed without a sign permit being obtained from the Council (clause 32 of the Bylaw).

#### **THE POLICY**

14. The Council's Legal Services Unit has reviewed the current content of the policy to analyse whether the various matters it purports to control are subject to regulation elsewhere, in order to establish whether each provision is still useful and/or relevant. The outcome of this review is summarised below:

POLICY PROVISIONS	COMMENTS
<b>1 Cathedral Square, City Mall and New Brighton Mall</b>	
(a) No vehicles to be parked in above places for the purpose of political party promotion (prohibition includes caravans).	This is the only provision which does not appear to be covered by any other bylaw, policy or legislative provision. If necessary, it could be included within the Public Places and Signs Bylaw, when the next amendment or review of this Bylaw is made. In the meantime, or alternatively, it can be included in the advisory summary document replacing this policy, or the Council's Parking Policy.
(b) Tables for checking electoral rolls are permissible.	The Council as owner/occupier of these places would need to consent to the tables being there anyway, without the need for it to be included in a policy.
“(c) Some tasteful candidate advertising may be attached to the campaign tables.”	What is “tasteful” candidate advertising? No guidance in policy, but what local or parliamentary candidates can include in their advertising is regulated in part by the two relevant Acts, and probably also under the Advertising Standards Authority Code of Practice, so not necessary to make this statement in a policy.
“(d) No charge will be made for the use of sites in Cathedral Square, the City Mall or the New Brighton Mall.”	The Council can decide this as owner/occupier, but would not necessarily need to include this in a policy, or this (and potentially all of these provisions if thought necessary) could be transferred to another policy (eg the Public Street Enclosures Policy, which covers Cathedral Square, Cashel Mall and New Brighton Mall).
“(e) The Leisure Unit must be advised when such political party promotions are proposed.”	See above comment
<b>2 Advertising Signs (Including Placards, Posters and Banners on or adjacent to Roads)</b>	
(a) Signs less than 3m <sup>2</sup> in area and mounted no higher than 3 metres may be erected on private property.	As noted in this part of the policy – the City Plan has requirements that cover this, including a specific reference to election signs being no more than 3m <sup>2</sup> in area (clause 3.4.1(a)(iii)). This clause of the policy is redundant.
“(b) A Council consent must be obtained before signs are attached to buildings. (Note: This applies to signs of solid framing or backing in excess of 2 square metres.)”	The Bylaw includes provisions relating to signs being affixed to buildings, as does the City Plan, which contain much more detail. This clause of the policy is therefore redundant.
“(c) No advertising signs are permitted on any road structure such as poles or cabinets, trees or on parks and reserves, footpaths, roads, road reserves or other land owned or controlled by the Council.”	If this statement was not included in a policy then clause 4 of the Bylaw would apply because the consent of the owner/occupier is required before any election sign could be erected (this would be a “banner, placard, poster” or other material with written or pictorial representations). In view of this statement the Council would not be likely to give its consent. In addition, even if the Council includes in a policy that it will not permit something, there is case law which provides that a Council cannot blindly follow its policy and must be prepared to depart from its policy in unusual circumstances.

POLICY PROVISIONS	COMMENTS
<p>“(d) Signs must not be reflectorised or erected in such a location that they will create an obvious conflict with existing road signs. Signs must not imitate or be of a form similar to any traffic signs (this is a requirement in terms of the Traffic Regulations 1976).”</p>	<p>The wording of the policy is now out of date as the Traffic Control Devices 2004 is now applicable. Clauses 4.7 and 3.2(5) cover both of these matters, so this clause of the policy is redundant.</p>
<p>“(e) Signs must not be erected facing into any intersection controlled by traffic signals or roundabouts. Signs erected in the vicinity of other intersections must be placed so that they can be viewed by drivers leaving rather than entering the intersection. Signs erected in these locations shall be parallel to the street boundary of the property on which they are erected. Signs shall not be located so as to be likely to obscure or to confuse the interpretation of any traffic signals.”</p>	<p>The City Plan includes requirements on traffic safety, particularly that “No outdoor advertisement shall be erected within 50 metres of an intersection controlled by traffic signals or a roundabout”, which overrides this provision of the policy. The last sentence in this clause of the policy is also found in the City plan. This clause of the policy is redundant.</p>
<p>“(f) Trailer and other vehicle mounted signs are not permitted (a bylaw provision) unless associated with a street meeting in progress or attached to a parked caravan with people in attendance. (Note: Contravention of this paragraph is an offence under the parking bylaws.) However, the following signs are permitted:</p> <p>(i) Signs mounted on the roof of vehicles, provided they comply with the provisions of the Traffic Regulations 1976.</p> <p>(ii) Signwriting on the bodywork of candidates’ vehicles, giving basic information such as the name of the candidate, their party and contact phone number(s).”</p>	<p>This clause of the policy is also redundant, because as it points out itself all of the requirements are included elsewhere (in Bylaws or under the, now, Land Transport Rules).</p>
<p>“(g) Signs must not be displayed for more than three months, and must be removed within seven days after the election if a postal voting system is used; or removed and/or covered prior to election day when the ballot system is used. ...”</p>	<p>This clause of the policy is also redundant because it is overridden by the provisions of the City Plan relating to temporary outdoor advertising such as for elections – it can be displayed for up to 12 weeks and must be removed 5 days after the event.</p>
<p>“(h) Signs erected contrary to these requirements or in a location or manner likely to cause distraction or danger to road users may be removed by the Council without prior notice. Where a sign is removed by the Council in these circumstances, the candidate(s) will then be advised of the action taken and the sign may be recovered from the Council following the payment of a fee of \$50 to cover part of the removal costs.”</p>	<p>A policy cannot give this power to the Council; it would have to exist already under legislation or a Council Bylaw in relation to other land. The General Bylaw (clause 14) provides that notice in writing would have to be given to an owner or occupier to remove something erected contrary to a bylaw, before the Council could remove it. It can also claim the costs of doing so.</p> <p>The Council would have the power to remove signs in relation to land it owns. It can also claim the costs of doing so from any road, public place or reserve (clause 14(b)(ii) of the General Bylaw). If the Council has not given consent for a sign to be on its land then that would be a breach of clause 4 of the Bylaw, and under the General Bylaw, that would be an offence.</p>

## **STAFF RECOMMENDATIONS**

It is recommended:

- (a) That the Council revoke the policy originally adopted in 1999 and confirmed by the Council in June 2002, relating to the requirements for promotions and the erection of advertising signs for parliamentary and local body elections.
- (b) That the policy be replaced by a summary document in an advisory format, which can be made available to intending candidates and other interested parties prior to future local authority and parliamentary elections.