

Activities in the Road Corridor Bylaw 2022

For decision: For noting:

Te tūtohunga / Recommendation

- a) That the Auckland Transport Board (board) approves the Activities in the Road Corridor Bylaw 2022 (subject to any final legal amendments), as contained at Attachment A, to be enacted from Monday 30 May 2022.

Te whakarāpopototanga matua / Executive summary

1. The Activities in the Road Corridor Bylaw 2022 outlines regulated activities and behaviours not related to vehicle travel which occur in the road corridor. These activities include construction, traffic management, trading, events, filming and livestock movements.
2. The draft Activities in the Road Corridor Bylaw 2022 was approved for public consultation by the board on 9 December 2022 and consultation took place during January and February 2022, with mana whenua and local board engagement in March 2022.
3. The feedback received has been analysed and reported on in the Activities in the Road Corridor Bylaw 2022 – Consultation Report, contained at Attachment B.
4. As a result of received feedback, a number of changes to the bylaw have been made, which will respond to community concerns with the draft, while also ensuring that the bylaw will play a critical role in ensuring a safe transport system.
5. The key changes made in response to feedback were:
 - a. Updated references to the Code of Practice for Temporary Traffic Management to account for a potential replacement document, the New Zealand Guide to Temporary Traffic Management.
 - b. Updated Clause 3(1) which defines restricted activities to allow for exceptions via prior approval.
 - c. For livestock movements, the requirements for crossing a road and for droving (moving along a road) were separated.
6. We are now seeking board approval of this final version of the Bylaw, and allow its commencement from Monday 30 May 2022, with updates to the Auckland Transport (AT) Delegations Manual reflecting the Bylaw changes to be approved by the Chief Executive.

Ngā tuhinga ō mua / Previous deliberations

| Date | Report Title | Key Outcome |
|--|---|---|
| 9 December 2021 Board | Activities in the Road Corridor Bylaw – Public Consultation Version | The board endorsed draft bylaw for public consultation and approved establishment of a hearings panel |
| 17 May 2022 Design and Delivery Committee | Activities in the Road Corridor Bylaw 2022 | The Committee recommended the Bylaw for approval by the board. |

Te horopaki me te tīaroaro rautaki / Context and strategic alignment

7. AT has bylaw making powers under the Land Transport Act 1998 (LTA) and the Local Government Act 2002 (LGA2002) via authority provided under the Local Government (Auckland Council) Act 2009 (LGACA). Under the LGACA, only AT can make transport-related bylaws relating to Auckland’s transport system, while Council can only make bylaws that are not transport-related. Both AT and Council need to collaborate closely to ensure no regulatory gaps occur between bylaws.
8. Bylaws made under the LGA2002 are generally required to be reviewed within 5 years of being made and every 10 years thereafter. If not reviewed or revoked, they expire 2 years after the last date on which they should have been reviewed. Bylaws made under the LTA do not have these statutory review requirements. Most of AT’s bylaws have been made under both the LGA2002 and LTA and consequently require review in line with the LGA2002 requirements.
9. Five bylaws are expired or imminently expiring and therefore require review or replacement in order for AT to continue regulating road corridor matters. To address this issue, AT developed a new bylaw, the Activities in the Road Corridor Bylaw, to consolidate all components of these bylaws as they all relate to non-traffic related activities which occur in the road corridor, creating a single location for all requirements to be articulated and enforced from.
10. While the proposed bylaw is largely a consolidation of what the previous bylaws contained, the revision has enabled it to support more effective compliance and enforcement and to enable AT to fulfil its priorities and strategies. Key changes included:
 - a. Eliminating the need for a formal legal document (the Developer’s Agreement) to be signed for works in the road corridor by non-utility operators; instead, the content has been incorporated into the bylaw directly so that it forms a part of approval conditions. This is expected to reduce the administrative load on applicants and on AT while retaining the ability to respond to breaches of conditions where these occur.
 - b. Including the ability for AT to enforce, refuse or revoke permissions should approvals not be complied with. This includes the ability to reasonably refuse permissions to undertake work in the road corridor based on prior non-compliance or safety concerns that are on record.

- c. Requiring an approval for placing of portable toilets, generators, skip bins or waste containers on the berm or road (other than bins placed in accordance with the Auckland Council Waste Management and Minimisation Bylaw). This is to support enforcement and response to frequent issues where these items are left behind after a site is packed away.
 - d. Preparing a consolidated set of requirements for grazing, tethering or moving livestock in the road corridor, including the requirement to comply with the Code of Practice for Temporary Traffic Management (CoPTTM) Section I-5.
11. Following endorsement from the Board, public consultation on the draft Bylaw was held from 25 January to 27 February 2022, concluding with a hearing on 11 March 2022. Local board and mana whenua engagement occurred throughout March 2022.
12. 50 pieces of feedback were received from the public, seven people/organisational representatives spoke at the hearing held on 11 March, reports from all local boards were received and mana whenua feedback was received through a series of hui during March.

Ngā matapakinga me ngā tātaritanga / Discussion and analysis

13. Our approach to consultation and engagement was well received, particularly our targeted approach using focus groups rather than only requesting general submissions. This approach allowed people to feel heard and to contribute to the development of the bylaw.
14. Following initial concerns expressed by the Rural Advisory Panel, we held a specialised meeting with Federated Farmers which addressed the immediate concerns and resulted in a constructive and positive environment at the subsequent Livestock focus group session.
15. Support for the consolidation of the five previous bylaws was very strong throughout the engagement process, with the approach being perceived as a sensible and helpful one.
16. Our public consultation revealed some common areas of concern and feedback. These have been the focus for amendments. Feedback across other areas has also been considered and in many cases minor changes made; these will be described in our final report. The draft proposal, key feedback themes and consequent proposed changes to the final bylaw are outlined in the table below.

| Draft bylaw proposal | Feedback received | Proposed changes to final bylaw |
|---|---|---|
| Refers to CoPTTM for temporary traffic management plan (TMP) standards and for livestock movement requirements. | Waka Kotahi New Zealand Transport Agency (Waka Kotahi) is proposing the New Zealand Guide to Temporary Traffic Management (NZGTTM) to replace CoPTTM. Therefore, there is a risk that the bylaw will contain an outdated reference soon after being made. | The definition of CoPTTM is expanded to state that it applies to CoPTTM <i>or its replacement (as adopted by AT)</i> . This accounts for the uncertainty of NZGTTM as it is not yet confirmed when it will replace CoPTTM or be adopted by AT. |

| Draft bylaw proposal | Feedback received | Proposed changes to final bylaw |
|---|---|---|
| <p>Clause 3(1) in General Provisions outlines activities that are not permitted in the road corridor except where a utility operator is undertaking utility works. This includes activities such as leaving materials or objects in the road, or damaging or interfering with road structure or street furniture.</p> | <p>This appears to restrict activities which may occur under approvals, for example digging berm as part of construction works.</p> <p>Queries were also raised as to whether the bylaw is stating that berm planting is not permitted.</p> | <p>The clause has been updated to state an exemption for when an approval is held. This is considered more practical as if any policies change in the future the bylaw remains flexible to such changes.</p> <p>The question of berm planting is a policy issue that is not in scope of the bylaw project; currently berm planting is not permitted but the update to this clause covers any potential exceptions that may arise.</p> |
| <p>Where a vehicle or vehicle load exceeds the maximum dimensions allowed for standard vehicles (as set out in the <i>Land Transport Rule: Vehicle Dimensions and Mass 2016</i>) approved Temporary Traffic Management must be in place for any loading/unloading that is carried out in the road corridor.</p> | <p>Heavy Haulage Association considered that this places a burden on oversize vehicle operators by requiring additional administration and resources to design and implement TTM.</p> | <p>The requirement for TTM exists already as a condition on over dimension vehicle permits, including permits which Waka Kotahi issue on AT's behalf, and these requirements have previously been negotiated.</p> <p>Therefore, no change is proposed to the draft bylaw on this matter.</p> |
| <p>Refers to CoPTTM for livestock movement requirements.</p> | <p>The reference was confusing as it doesn't specify the relevant section of CoPTTM (Section I-5). Additionally, the proposal of NZGTTM is unclear on the future of CoPTTM Section I-5 and whether or not it carries over.</p> | <p>The definition of CoPTTM is expanded to state that it applies to CoPTTM <i>or its replacement (as adopted by AT)</i>.</p> |
| <p>The livestock movements requirements have been consolidated from those in the Franklin and Rodney District Council legacy bylaws and updated in accordance with current industry practice (for example, NZ Beef and Lamb guidelines on stock movement)</p> | <p>Some of the requirements are excessive, for example the requirement for two drovers for livestock crossings. Farmers choose an approach based on what the animals are familiar with, as this way the animals stay together and travel more safely.</p> <p>It was strongly expressed that droving and crossing are different and need a separate set of</p> | <p>The requirements for crossing and droving are separated and have been reviewed and updated.</p> <p>The requirement for two drovers has been reduced to:</p> <ol style="list-style-type: none"> a. For droving activities, one drover plus one other person (who may be a drover |

| Draft bylaw proposal | Feedback received | Proposed changes to final bylaw |
|--|--|--|
| and review in accordance with Vision Zero. | requirements each. Droving is moving livestock along a road for a distance, while crossing is moving livestock directly across at one point. | but doesn't have to be; this is at the discretion of the operator). b. For crossing activities, one drover. |

17. On 17 May 2022, the Design and Delivery Committee recommended the amended Bylaw to the board for approval, subject to some amendments to the attachments discussed with the Committee; these are outlined below:

- a. Street numbering and the display of street names are now proposed to be regulated by the Activities in the Road Corridor Bylaw 2022; previously these regulations were proposed to be in the Signs Bylaw 2022 however it was mutually agreed with Auckland Council (and on advice as part of the legal review of both Bylaws) that this is best held in the Activities in the Road Corridor Bylaw 2022.
- b. Other small edits to phrasing were made to avoid ambiguity and improve consistency with internal vernacular; for example, referring to the passing of resolutions instead of the making of controls.
- c. The Delegations Manual will be updated to reflect the Bylaw and approval for the updates will be sought from the Chief Executive.

Ngā tūraru matua / Key risks and mitigations

18. There is a regulatory gap between the expiry of AT's Trading and Events in Public Places Bylaw 2015 and the commencement of the new bylaw. We have previously examined this risk in detail with Council staff and reviewed existing street trading licences, finding that the risk of breaches over a two-month period is low and that these can usually be managed without relying on AT's bylaw, however adoption should be as quick as possible.

Ngā ritenga-ā-pūtea me ngā rauemi / Financial and resource impacts

19. There are no direct financial or resource impacts associated with this paper. The commencement of the bylaw will enable AT and Council to enforce breaches of our policies.

Ngā whaiwhakaaro ō te taiao me te panonitanga o te āhuarangi / Environment and climate change considerations

20. There are no direct environment or climate change impacts associated with this paper; however, the bylaw is structured to assist with the transformational change planned through the Regional Land Transport Plan and associated plans over the coming decade.

Ngā whakaaweawe me ngā whakaaro / Impacts and perspectives

Mana whenua

21. In December 2021, all iwi in the Auckland region were provided with a letter outlining the upcoming proposal and plans for public consultation and providing the opportunity for a pre-engagement workshop.
22. As no response was initially received, advice was sought from AT's Māori Policy & Engagement team who assisted in facilitating workshops at the Southern Hui, North-western Hui and Central Hui in March 2022.
23. Mana whenua feedback at the three Hui was supportive of the bylaw proposal and conformed to the feedback received from the general public and is addressed as per the table above.

Ngā mema pōti / Elected members

24. In October and November 2021, all local boards were provided with a letter outlining the upcoming proposal and plans for public consultation and providing the opportunity for a pre-engagement workshop.
25. A briefing was held for all local boards on 18 February 2022 to inform and update them on the public consultation of the bylaw and to provide the opportunity for them to hold a workshop on the bylaw in advance of their April business meetings.
26. All local boards were invited to submit feedback on the bylaw as part of the April business meetings. This feedback conformed to the feedback received from the general public and is addressed as per the table above.

Ngā rōpū kei raro i te Kaunihera / Council Controlled Organisations

27. Regular discussions have been held with Council's policy staff to discuss alignment with the Council's Te Ture ā-Rohe Tauhokohoko, Whakahaerenga me te Tango Kiriata Tūmatanui 2022 (Public Trading, Events Filming Bylaw 2022), in particular regarding micro-mobility.

Ngā kiritaki / Customers

28. Public consultation was held from late January to late February 2022, including feedback forms and facilitated focus groups. A hearing was held on 11 March 2022 for submitters. The feedback received was addressed as per the table above.

Ngā whaiwhakaaro haumarū me ngā whaiwhakaaro hauora / Health, safety and wellbeing considerations

29. There is no direct safety impact associated with this paper, however the bylaw will help ensure that safe and compliant behaviour is undertaken in the AT road corridor and will enable enforcement against those who exhibit unsafe behaviour.



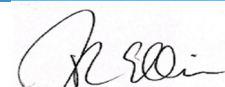
Ā muri ake nei / Next steps

30. Assuming board approval, the Activities in the Road Corridor Bylaw 2022 will be adopted and will commence as of 30 May 2022
31. An updated webpage will be released, with information on the Bylaw, the consultation report, and how to receive approvals. Follow up engagement with all stakeholders, partners and interested parties (including submitters) will occur.
32. The AT Delegations Manual will be updated and approval sought from the Chief Executive.
33. Staff will inform the New Zealand Police Commissioner and Waka Kotahi of the making of the bylaw, as required by law.
34. A practice note will be prepared for enforcement staff at AT and Council to assist with applying the correct enforcement mechanisms when the bylaw commences.

Ngā whakapiringa / Attachments

| Attachment number | Description |
|-------------------|--|
| 1 | Activities in the Road Corridor Bylaw 2022 |
| 2 | Activities in the Road Corridor Bylaw 2022 - Consultation Report |

Te pou whenua tuhinga / Document ownership

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|-------------------------|--|---|
| Submitted by | Shane Ingley / Andrew McGill Senior Policy Advisor / Head of Integrated Network Planning |  |
| Recommended by | Jenny Chetwynd Executive General Manager, Planning and Investment |  |
| Approved for submission | Shane Ellison Chief Executive |  |