

25 May 2022

Hon David Parker, Attorney-General

## **Consistency with the New Zealand Bill of Rights Act 1990: Local Electoral (Advertising) Amendment Bill**

### **Purpose**

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1. We have considered whether the Local Electoral (Advertising) Amendment Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 24762/4.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered the consistency of the Bill with s 14 (freedom of expression). Our analysis is set out below.

### **The Bill**

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4. The Bill amends s 113 of the Local Electoral Act 2001 to address safety concerns related to the publication of residential addresses on local election campaign advertisements. The Bill allows for the address requirement of an advertisement authorisation statement to be met by providing:
  - a. a residential or business address;
  - b. an email address;
  - c. a post office box number;
  - d. a phone number; or
  - e. a link to an Internet site (if that site contains 1 or more of the above).

### **Consistency of the Bill with the Bill of Rights Act**

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#### **Section 14 - Freedom of Expression**

5. Section 14 of the Bill of Rights Act affirms that everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form. Section 14 has been interpreted as including the freedom not to be compelled to say certain things or to be compelled to provide certain information.<sup>1</sup>

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<sup>1</sup> See, for example, *Slaight Communications v Davidson* 59 DLR (4<sup>th</sup>) 416; *Wooley v Maynard* 430 US 705 (1977).

6. The Bill carries over advertising authorisation requirements from the Local Electoral Act, which compel an advertiser to provide their contact information, prima facie engaging s 14 of the Bill of Rights Act.
7. However, we consider that these requirements are justified. Advertising authorisation requirements support the important objective of providing transparency regarding the source of electoral advertising, which also ensures advertising accountability.
8. The Bill reduces the impact of authorisation requirements by allowing a person's contact details to take a range of forms, lessening the impact of the compelled information on a person's privacy. We consider that the requirement is minimally limiting and in due proportion to the importance of the objective of maintaining transparency.
9. For these reasons we consider that any limits within the Bill on the right to freedom of expression are justified under s 5 of the Bill of Rights Act.

## **Conclusion**

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10. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Jeff Orr  
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