

ANNEX 2

STATEMENT OF PROPOSAL TO AMEND THE WELLINGTON CITY CONSOLIDATED BYLAW 2008 PART 6 – SPEED LIMITS

CONTENTS

- 1. Introduction**
- 2. Have your say**
- 3. Background**
 - 3.1 Legislation
 - 3.2 The role of the Council in setting speed limits
- 4. Development of the proposed amendment**
 - 4.1 Local Government Act 2002 requirements
 - 4.2 The 'perceived' problem
 - 4.3 Is a bylaw the most appropriate way to address the problem and is this the most appropriate form of bylaw?
 - 4.4 Bill of Rights implications
- 5. Process and proposed timeline**

Appendix 1:

Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits

1. Introduction

This Statement of Proposal relating to amending the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits (Speed Limits Bylaw) is being published so we can hear the views of the ratepayers and stakeholders on the proposed amendments.

The amendments are proposed in accordance with the Land Transport Rule: Setting of Speed Limits 2003 (the Rule) (as amended in 2005 and 2007) and the Local Government Act 2002 (LGA 2002).

The Special Consultative Procedure is being used in making the proposed amendments, in accordance with section 86 of the LGA 2002.

This document contains:

- background information
- an outline of the review process required under the LGA 2002
- an identification of the 'perceived' problem
- an impact analysis of the proposed amendments
- the text of the proposed amendments to the Speed Limits Bylaw.

2. Have your say

The Wellington City Council (Council) is keen to know what ratepayers and stakeholders think about the proposed amendments. A submission form is attached to this Statement of Proposal. Additional copies of these documents are available online at www.wellington.govt.nz and at Council service centres and libraries. Copies may also be obtained by forwarding an email request to hanita.shantilal@wcc.govt.nz.

The Councillors will consider all the submissions on the proposed amendments before making a decision on whether to adopt the proposed Speed Limits Bylaw. For those who wish to make an oral submission, they will be heard by the Strategy and Policy Committee on 13 August 2009.

Please make a submission on line at www.wellington.govt.nz, email your submission to hanita.shantilal@wcc.govt.nz or fill in the attached submission form and send it to Hanita Shantilal, Freepost, Wellington City Council, PO Box 2199, Wellington.

Written submissions open on 30 June 2009 and close at 5.00pm on 7 August 2009.

3. Background

On 5 April 2004 central government formally passed on to local city and district councils responsibility for setting speed limits on their roads as road controlling authorities (RCA). The various legal, technical and procedural requirements placed on RCA's as a result of these responsibilities are contained in the Rule created by the Land Transport Safety Authority.

The Speed Limits Bylaw came into effect on 11 October 2004 pursuant to section 684(13) of the LGA 2002 and the Rule. The Speed Limits Bylaw currently allows the Council to set speed limits of 20, 30, 40, 50, 60, 70, 80 or 100km/h in relation to roads or areas under its control in the district.

The Speed Limits Bylaw is being reviewed at this time pursuant to section 158 of the LGA 2002 which provides that bylaws must be reviewed within five years after they are made and thereafter at ten year intervals. If they are not reviewed within these timeframes, they will lapse two years after the date by which they were due to be reviewed. Furthermore, the Speed Limits Bylaw needs to be amended to reflect the amendments made to the Rule.

3.1 Legislation

The following legislation is relevant to the proposed amendment:

Local Government Act 2002

Section 158 of the LGA 2002 provides that bylaws must be reviewed within five years after they are made and thereafter at ten year intervals. If not reviewed within the required period, a bylaw will lapse with its provisions remaining in effect for up to two years after the date by which it was due to be reviewed, when it will expire and cease to have effect pursuant to section 160.

When making a bylaw, section 155 requires the Council to consider whether:

- a bylaw is the most appropriate way of addressing the perceived problem/s (determine that the perceived problem/s cannot be dealt with in another manner)
- the proposed bylaw is the most appropriate form of bylaw
- the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (BORA).

When undertaking a bylaw review, section 159 requires the Council to reconsider the matters in section 155 and an internal audit must be conducted to identify any work that has been previously undertaken, for example:

- relevant legal issues, legislative changes and provisions

- obvious changes to existing bylaw clauses
- relevant legal experience/comment on bylaw
- other legal options.

Section 159 of the LGA 2002 requires that a Special Consultative Procedure be used to review a bylaw. Sections 83, 86 and 156 instructs the Council on how a Special Consultative Procedure needs to be carried out. This involves preparing a statement of proposal that includes:

- the reasons for the proposal
- whether a bylaw is the most appropriate way to address the perceived problem
- whether the bylaw is the most appropriate form of bylaw
- consideration of any implications under the BORA
- a draft of the proposed bylaw.

In addition, the Council is required to prepare a summary of information contained in the statement of proposal that must:

- be a fair representation of the major matters in the statement of proposal
- be distributed as widely as reasonably practicable as a basis for general consultation
- indicate where a statement of proposal may be inspected and how a copy can be obtained
- state the period within which submissions on the proposal can be made to the local authority.

Land Transport Rule: Setting of Speed Limits 2003

The Rule contains procedures whereby RCAs may set enforceable speed limits on roads within their jurisdictions. The purpose of the procedures is to ensure that the risk to public safety is minimised and that the freedom of road users to travel on New Zealand roads at speeds that are reasonable and appropriate is protected through checks and balances on the actions of RCAs.

4. Development of the Proposed Amendment

4.1 *Local Government Act 2002 requirements*

The LGA 2002 prescribes the purposes for which bylaws can be made and the process for making and enforcing them. The Speed Limits Bylaw was created pursuant to section 684 (13) of the LGA 1974 which allows '*councils to make bylaws concerning roads and cycle tracks and the use thereof, and the construction of anything upon, over, or under a road or cycle track*'.

The LGA 2002 has three specific sections that specify the steps that need to be taken in the bylaw making process. Section 155 of the LGA 2002 prescribes that before starting the process to make a bylaw, the Council must determine whether:

- a bylaw is the most appropriate way to address the perceived problem

- the proposed bylaw is the most appropriate form of bylaw
- the proposed bylaw gives rise to any implications under the BORA.

The following sections follow the LGA 2002 framework that enables the Council to decide whether to make a Speed Limits Bylaw.

4.2 The 'perceived' problem

The Council is required to review the Speed Limits Bylaw pursuant to section 158 of the LGA 2002 which provides that bylaws must be reviewed within five years after they come into force. Furthermore, the Speed Limits Bylaw needs to be amended to reflect the changes made to the Rule.

4.3 Is a bylaw the most appropriate way to address the problem and is it the most appropriate form of bylaw?

The reason for the changes to the Speed Limits Bylaw is to reflect the amendments to the Rule. Without an amendment to the Speed Limits Bylaw, the Council would not be able to set the two new speed limits that are provided for by the Rule. On this basis, it is the most appropriate form of bylaw and is the correct method to address the perceived problem.

4.4 Bill of Rights implications

The Council must determine whether the proposed Speed Limits Bylaw gives rise to any implications under the BORA. In reaching a conclusion in relation to the BORA it is important to remember that under section 5 of the BORA, all rights can be impinged upon if it can be shown to be a reasonable limitation that is justified in a free and democratic society.

The proposed changes to the Speed Limits Bylaw do not restrict any rights contained in the BORA. In fact, the Council is specifically authorised to make speed limits by way of bylaw for both 10km/hr and 90km/hr. Accordingly, reviewing the Speed Limits Bylaw is the only way of making that change.

5. Process and proposed timeline

This consultation is being undertaken as the Special Consultative Procedure. The following consultation plan includes both public and targeted consultation.

The proposed timeline for considering the proposed amended Speed Limits Bylaw is as follows:

30 June 2009 – 7 August 2009	Consultation period
13 August 2009	Oral submissions heard
10 September 2009	Strategy and Policy Committee considers report on all written and oral submissions received
30 September 2009	Council considers adoption of the proposed

	amendment
October 2009	The amended Speed Limits Bylaw will come into force

APPENDIX 1

WELLINGTON CITY CONSOLIDATED BYLAW 2008

PROPOSED DRAFT AMEDMENT PART 6 – SPEED LIMITS

Purpose

This part of the Bylaw allows the Council to set speed limits by resolution, on all roads under its control and in certain designated locations specified in the Bylaw.

This Part of the Bylaw is made pursuant to section 684(3) of the Local Government Act 1974, the Local Government Act 2002 and the Land Transport Rule: Setting of Speed Limits 2003. The Speed Limits Bylaw allows the Council to set speed limits of 10, 20, 30, 40, 50, 60, 70, 80, 90 or 100 km/h in relation to roads or areas under its control in the district.

Deleted: and

1. Definitions

1.1 In this part:

Bylaw speed limit means a speed limit for vehicle traffic imposed by the Council pursuant to clause 3.4 or 3.5 of this Bylaw.

Owner means the person/entity listed as the 'ratepayer' for the property on the Council's Rating Information Database.

Road has the same meaning as in Land Transport Rule: Setting of Speed Limits 2003, but does not include any State Highways within the district.

Rural area has the same meaning as in Land Transport Rule: Setting of Speed Limits 2003.

Speed Limit has the same meaning as in the Land Transport Rule: Setting of Speed Limits 2003.

Urban traffic area has the same meaning as in the Land Transport Rule: Setting of Speed Limits 2003.

2. Application of this Bylaw

2.1 This Bylaw applies to all roads under the control and management of the Wellington City Council.

3. Bylaw Speed Limits

- 3.1 The roads or areas indicated on the attached plans numbered SL1-16 are declared to be subject to the speed limits identified on those plans.
- 3.2 The speed limits identified in the plans referred to in clause 3.1 apply until any or all of those speed limits are altered by resolution under clause 3.4 or 3.5. Once altered under clause 3.4 or 3.5, the relevant speed limit on the attached plans ceases to have effect.
- 3.3 In accordance with clause 10 of the Land Transport Rule: Setting of Speed Limits 2003:
 - a. the roads identified on the attached plans as having a 50km/hour speed limit, are designated as urban traffic areas
 - b. any speed limits identified on the attached plans (other than 50km/h on roads within a designated urban traffic area and 100km/h on roads within a rural area), are validated.
- 3.4 The Council may by resolution in accordance with clauses 4.1 and 4.2 make additions to, or alterations to, the bylaw speed limits for any roads or areas identified on the attached plans. The Council may set speed limits of 10, 20, 30, 40, 50, 60, 70, 80, 90 or 100km/hr on any road or area in its district. A 90km/hr speed limit can only be imposed on roads in the rural area and may be subject to conditions imposed by the New Zealand Transport Agency by notice in the Gazette.
- 3.5 The Council may, by resolution in accordance with clauses 4.1 and 4.2 of this bylaw and in accordance with the Land Transport Rule: Setting of Speed Limits 2003, make or alter bylaw speed limits for roads in any of the following designated locations:
 - a. a car park
 - b. an educational or scientific facility
 - c. a health facility
 - d. a residential facility
 - e. a camping ground
 - f. a sports facility or other recreational area
 - g. a botanical garden
 - h. a port or wharf area
 - i. an airport
 - j. a beach
 - k. a cemetery
 - l. a facility operated by the New Zealand Defence Force
 - m. any other location approved by the Director of Land Transport Safety
- 3.6 Any resolution made by the Council under clauses 3.4 or 3.5 must be recorded by the Council in a Register of Speed Limits. The details to be recorded in the Register are set out in Rule 7.3 of the Land Transport Rule: Setting of Speed Limits 2003.

3.7 Where a bylaw speed limit is set, areas to which the bylaw speed limit applies will be marked by notices or signs as required by Land Transport Rule: Setting of Speed Limits 2003.

4. Consultation

4.1 If the Council chooses to create, amend or alter any bylaw speed limit by way of resolution under clauses 3.4 or 3.5 of this Bylaw, the consultation process in clause 7.1 of the Land Transport Rule: Setting of Speed Limits 2003 must be followed.

4.2 Where the Council intends to pass a resolution under clause 4.1 or this bylaw to set a speed limit for a particular road or area, then consultation with the community in accordance with clause 7.1(2) of the Land Transport Rule: Setting of Speed Limits 2003 will be undertaken by way of:

Deleted: done

- a. writing to all owners and occupiers of property on the affected road, notifying them of the proposed changes and giving them the opportunity to submit and be heard, and
- b. public notice in the newspaper(s) for the Wellington area giving the public the opportunity to submit and be heard, and
- c. consideration by Council before adopting the resolution.

5. Offences

5.1 Every person commits an offence against this Bylaw who operates a vehicle in excess of the bylaw speed limits set by this bylaw.

Note: Offences, penalties and fees relating to infringement of speed limits are provided for in the relevant provisions of the Land Transport Act 1998 and Transport Act 1962. These do not change as a result of this Bylaw.

Related Links

- Land Transport Rules – Land Transport website

