
REPORT 3
(1215/52/IM)

REVIEW OF SPEED LIMITS BYLAW

1. Purpose of Report

This report presents proposed amendments to the Wellington Consolidated Bylaw 2008 – Part 6 Speed Limits (Speed Limits Bylaw) and seeks agreement from the Committee to refer the attached Statement of Proposal to Council to initiate the Special Consultative Procedure as required by section 156 of the Local Government Act 2002 (LGA 2002).

2. Executive Summary

The Setting of Speed Limits Rule 2003 (the Rule) required the Council to create a Speed Limits Bylaw to confirm all current legal speed limits within the Wellington City area for which the Council is the Road Controlling Authority (RCA) and to allow the Council to make changes to speed limits where the Council considers it to be appropriate, using the process laid down in the Rule.

The Speed Limits Bylaw was adopted by Council on 5 October 2004 and came into effect on 11 October 2004.

The proposed bylaw retains the intent of the existing Bylaw and is being reviewed at this time pursuant to section 158 of the LGA 2002 which requires bylaws to be reviewed within five years after they are made and thereafter at ten year intervals. The Speed Limits Bylaw also needs to be amended to reflect the amendments that have been made to the Rule.

The proposed amendments allow the Council to:

- set speed limits of 10km/hr in relation to roads or areas under its control in the district
- set speed limits of 90km/hr on roads in rural areas which may be subject to conditions imposed by the New Zealand Transport Agency by notice in the Gazette
- update the 2004 approved plans to reflect changes made by resolution of the Council over the last five years.

3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Note that the Council is required to review the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits by 4 October 2009 pursuant to section 158 of the Local Government Act 2002.*
3. *Note that the Statement of Proposal contains a proposal to include the following in the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits:*
 - *Allow the Council to set speed limits of 10km/hr in relation to roads or areas under its control in the district as per the Land Transport Rule: Setting of Speed Limits 2003 (as amended in 2005).*
 - *Allow the Council to set speed limits of 90km/hr on roads in rural areas which may be subject to conditions imposed by the New Zealand Transport Agency by notice in the Gazette as per the Land Transport Rule: Setting of Speed Limits 2003 (as amended in 2005).*
 - *Update the 2004 approved plans to reflect changes made by resolution of the Council over the last five years.*
4. *Authorise the Chief Executive Officer and the Urban Development and Transport Associate Portfolio Leader to make any minor editorial changes to the Statement of Proposal required as a result of the Strategy and Policy Committee deliberation, prior to it being referred to Council.*
5. *Recommend to Council that it:*
 - (a) *Note that the Council is required to review the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits by 4 October 2009 pursuant to section 158 of the Local Government Act 2002.*
 - (b) *Agree that amending the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits is the most appropriate way to address the perceived problem and it is the most appropriate form of bylaw.*
 - (c) *Agree that the proposed amendments to the Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits do not give rise to any implications under the New Zealand Bill of Rights Act 1990.*
 - (d) *Agree to initiate the Special Consultative Procedure on the proposed amended Wellington City Consolidated Bylaw 2008 Part 6 – Speed Limits, pursuant to sections 83, 86, 156, 158 and 160 of the Local Government Act 2002.*

(e) *Note that consultation will take place from 30 June 2009 to 7 August 2009.*

4. 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 RCAs. The various legal, technical and procedural requirements placed on RCAs as a result of these responsibilities are contained in the Rule which was made by the Land Transport Safety Authority.

The Wellington City Speed Limits Bylaw came into effect on 11 October 2004. 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 requires bylaws to be reviewed within five years after they have come into force.

The Speed Limits Bylaw also needs to be amended to reflect the amendments that have been made to the Rule.

5. Discussion

5.1 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 2002 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 establish the steps 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 New Zealand Bill of Rights Act 1990 (BORA).

The LGA also prescribes that a Special Consultative Procedure is required. Sections 83, 86 and 156 instructs the Council on how a Special Consultative Procedure needs to be carried out.

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

5.1.1 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 amendments made to the Rule.

5.1.2 Most appropriate way to address the perceived problem and whether it is the most appropriate form of bylaw

The reason for the changes to the Speed Limits Bylaw is to reflect the amendments to the Rule. Although there are currently no proposals to set speed limits of 10km/hr or 90km/hr, including them within the Speed Limits Bylaw now will allow the Council to set these speed limits if needed in the future. Accordingly, reviewing the Speed Limits Bylaw is the only way of including these amendments. On this basis, it is the most appropriate form of bylaw and is the correct method to address the perceived problem.

5.1.3 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 Council's legal advisers agree that 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. Amending the Speed Limits Bylaw is the only way of making that change.

6. Process and Timeline

The proposed Speed Limits Bylaw has been developed with relevant Council business units and key stakeholders. Public consultation will be completed under the Special Consultative Procedure as required by the LGA 2002.

The process is as follows:

11 June 2009	The Strategy and Policy Committee will consider the proposed Speed Limits Bylaw and refer it to Council for consideration
29 June 2009	Council will consider the Statement of Proposal and initiate the Special Consultative Procedure as required pursuant to section 159 of the LGA 2002
30 June 2009 – 7 August 2009	Consultation period

13 August 2009	The Strategy and Policy Committee hears oral submissions
10 September 2009	The Strategy and Policy Committee considers report on all written and oral submissions received
30 September 2009	Council considers the final proposed bylaw
October 2009	Public notice, as required under section 157(1) of the LGA 2002, that the newly amended bylaw is in force

7. Conclusion

The Speed Limits Bylaw is being reviewed in compliance with requirements pursuant to Section 158 of the LGA 2002. The proposed Bylaw will allow the Council to set speed limits of 10km/hr to roads or areas under its control, 90km/hr in rural areas and to update the 2004 approved plans to reflect changes made by resolution over the last five years.

The Committee is asked to recommend to Council that it initiates the Special Consultative Procedure on the draft amended Speed Limits Bylaw.

Contact Officer: *Hanita Shantilal, Policy Advisor*

Supporting Information

1) Strategic Fit / Strategic Outcome

The Speed Limits Bylaw is consistent with the Council's Strategic outcome 2.5 Safer – 'Wellington will seek to improve the safety and security of its citizens as they move around the City and region'.

2) LTCCP/Annual Plan reference and long term financial impact

The Speed Limits Bylaw is monitored by the Infrastructure Directorate. No long term financial impacts have been identified.

3) Treaty of Waitangi considerations

No Treaty of Waitangi issues or opportunities have been identified through the review process.

4) Decision-Making

This is not a significant decision as defined under the Council's Significance Policy.

5) Consultation

- a. Public Consultation will occur through following the Special Consultative Procedure.*
- b. No issues of concern specifically to Maori have been identified. Generic requirements to consult with Maori will be met through the Special Consultative Procedure.*

6) Legal Implications

Legal advice has been obtained during the preparation of this proposal.

7) Consistency with existing policy

The proposed bylaw retains the intent of the existing Bylaw and has been reviewed to meet the Council's responsibility for setting speed limits on their roads.