

**Chairperson and Committee Members**  
REGULATORY MANAGEMENT COMMITTEE

11 JUNE 2015

Meeting Status: **Public**

Purpose of Report: For Decision

## **DRAFT 2015 SPEED LIMITS BYLAW**

### **PURPOSE OF REPORT**

- 1 This report seeks the Committee's approval for the release of the Draft Kāpiti Coast District Council Speed Limits Bylaw 2015 (**Draft Bylaw**) and associated Statement of Proposal for the purposes of consultation.

### **DELEGATION**

- 2 The Regulatory Management Committee has the authority to consider the issues raised in this report under clause 7.12 section B2 of the Governance structure:

#### ***Bylaws***

*7.12 Authority to review Council bylaws, to approve draft bylaws for public consultation, to hear submissions, and to recommend to the Council amendments to the bylaws.*

### **BACKGROUND**

- 3 In 2004, the Government passed the responsibility for setting speed limits on roads to the road controlling authorities. The various legal, technical and procedural requirements are contained in the Land Transport Rule: Setting of Speed Limits 2003 (**Speed Limits Rule**). Included in these requirements is the need to adopt a Speed Limit Bylaw which validates existing legal speed limits in the district and enables the Council to review and amend speed limits in the future. As a result the Speed Limits Bylaw 2005 was adopted.
- 4 The purpose of the Speed Limits Bylaw 2005 was to allow the Council to set speed limits by resolution, on all roads under its ownership or control and in certain designated locations specified in the Bylaw. The Police are responsible for enforcing speed limits in the district and issuing speeding tickets (generally infringement offence notices).
- 5 *The Speed Limit Bylaw 2005 is now due for review.*

### **Bylaw process**

- 6 The process for preparing a new bylaw is prescribed by the Local Government Act 2002 (LGA02). The general steps involved in preparing a bylaw are:
  - Issue Identification
  - Determining the Scope of the Bylaw
  - Creation of a Draft Bylaw

- Consultation – using the special consultative procedure or consultation that gives effect to the requirements of section 82
  - Deliberation on Submissions/Feedback (Consideration and Decision)
  - Council Approval
  - Storage and Availability – ensuring the bylaw is available in the prescribed way and format
- 7 In this case, the Draft Bylaw is made under the authority of the Land Transport Act 1998, the LGA02, and the Speed Limits Rule. Section 22AD of the Land Transport Act 1998 states that: *"a road controlling authority that is a local authority may not make a bylaw under section 22AB unless it has used the special consultative procedures set out in section 83 of the Local Government Act 2002"*. Accordingly in this case, the Council is obliged to use the special consultative procedure.

## ISSUES AND OPTIONS

### Issues

#### Draft 2015 Speed Limits Bylaw

- 8 The Draft Bylaw (see attached in Appendix 1) is based in part on a model bylaw prepared by the Land Transport Safety Authority for use by road controlling authorities as a template for speed limit bylaws, which has been in use for a number of years without any significant issues having arisen.
- 9 The Draft Bylaw:
- allows the Council, by resolution, to designate urban traffic areas, which are geographical areas in which roads are subject to 50 km/h speed limit;
  - provides for the Council, by resolution, to make variable, minimum, and 90 km/h speed limits for any roads in its jurisdiction;
  - allows for the Council, by resolution, to make or alter bylaw speed limits for roads in "designated locations". These include:
    - car parks
    - educational or scientific institutions
    - health facilities
    - residential facilities
    - industrial facilities
    - camping ground
    - sports facility or recreation area
    - botanical garden
    - port or wharf area
    - airport
    - beach
    - cemetery
    - facility operated by New Zealand Defence Force
    - any other location approved by the Director Land Transport Safety

In general, roads that are not in a designated urban traffic area will be rural roads, and subject to a 100 km/h speed limit under the Speed Limits Rule. However, the Council can change speed through variable, minimum, and 90 km/h speed limits, and

for roads in designated locations. In these situations, the Council may generally set speed limits of 10, 20, 30, 40, 50, 60, 70, 80, 90 or 100km/h.

### **Process for setting new speed limits under the draft bylaw**

10 Essentially the Draft Bylaw establishes a process for setting new speed limits. It is expected that this process will involve:

- Council officers following the processes set out in the Speed Limits Rule. This includes a technical assessment and consultation with appropriate parties.
- This is then reported to the relevant Community Board, who will make a recommendation to the Regulatory Management Committee on the proposed speed limit, in accordance with the following delegation:

#### ***Roading***

*10.17 Authority to approve or reject officer recommendations relating to all traffic control and signage matters, in relation to existing local roads within the community board's area, except for changes to speed restrictions on local roads. (The latter power has been delegated to the Regulatory Management Committee).*

*10.18 Authority to recommend to the Regulatory Management Committee changes to speed restrictions on local roads.*

- Consideration of the proposed speed limit and Community Board's recommendation and decision by the Regulatory Management Committee (in accordance with its delegation set out in paragraph 2 above); and
- If approved by the Regulatory Management Committee, the speed limit is set.

11 This process is the same as operated under the 2005 Bylaw.

### **Most appropriate form of bylaw**

12 The LGA02 requires that the Council determine whether a bylaw is the most appropriate way to deal with the issues being considered (section 155(1) LGA02). Councils are required to have a speed limits bylaw pursuant to the Speed Limits Rule, meaning it is clear that a bylaw is the most appropriate way to deal with this matter. No circumstances have arisen that suggest the Speed Limits Bylaw 2005 is an inappropriate means of managing activities.

13 A Council must also determine whether the bylaw being proposed:

- is the most appropriate form of bylaw; and
- gives rise to any implications under the New Zealand Bill of Rights Act 1990 (**Bill of Rights**).

14 Council officers consider that the Draft Bylaw is the most appropriate form of bylaw for the setting of speed limits.

15 As mentioned above, the draft Bylaw provides for the Council to set speed limits through resolution. The alternative to this approach is that the speed limits are written into the Draft Bylaw itself. The effect of this would be to require an

amendment to the bylaw every time a new speed limit is needed, requiring the Council to follow the prescribed LGA02 consultation process each time. This would use additional and unnecessary time and resource, given that the Council is already obliged to follow consultation processes under the Speed Limits Rule when setting bylaws. By establishing the proposed process in the draft Bylaw, the Council may legitimately make new speed limits without the need for the additional LGA02 process.

- 16 The Draft Bylaw provides for consultation on any proposed speed limits (under clause 5.3 in the draft Bylaw) because the Council, in preparing a proposal to change speed limits, is required to follow the Speed Limits Rule. The Rule requires consultation aimed at ensuring that any person affected by proposed changes to speed limits is consulted. The requirements to consult set out in the Speed Limits Rule are extensive.
- 17 In addition, road controlling authorities do not have the ability to arbitrarily set speed limits. There is a strict speed limit assessment process that is required to be followed in any assessment of new speed limits. This is required by the Speed Limits Rule and must be followed by all road controlling authorities to ensure national consistency of speed limits. The setting of new, lower speed limits on roads can only be done if the strict criteria laid down in the Speed Limits Rule are met. On existing roads this may require extensive roading control and environmental enhancements to lower the speed environment to match any new speed limit.
- 18 In short, the Draft Bylaw allows the Council, by resolution, to make speed limit changes in an efficient and lawful manner. The Draft Bylaw is therefore considered to be the most appropriate form of bylaw.

### **Bill of Rights**

- 19 Council officers have considered whether the Draft Bylaw gives rise to any implications under the Bill of Rights, and consider that no major issues arise.
- 20 On its face, the Draft Bylaw might arguably be inconsistent with the right to freedom of movement in the Bill of Rights, as it places some limits on how people move about. Section 18(1) of the Bill of Rights provides that: *"everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand"*.
- 21 However, any such limits on the right of members of the public to move about that would be imposed under the Draft Bylaw are justified in order to ensure safety of all road users. Section 5 of the Bill of Rights provides that: *"the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society"*. The Speed Limits Rule prescribes reasonable limits on the right to freedom of movement through its provision of a requirement for speed limit bylaws, and its processes for setting speed limits.

### **Proposed Timeline**

- 22 Should the Committee approve the release of the Draft Bylaw for public consultation, the following timeline will be followed:

TASK	DATE
Regulatory Management Committee approval of draft Bylaw and Statement of Proposal for public consultation	11 June 2015
Submissions open for 31 days	22 June 2015
Submissions close	24 July 2015
Regulatory Management Committee Hearing on submissions	3 September 2015 (TBC)
Council decision	15 October 2015 (TBC)
Effective date of bylaw	TBC

## CONSIDERATIONS

### Policy considerations

23 The Draft Bylaw is essentially an update of the 2005 Bylaw. As such no substantive or material changes have been made to the policy context within which the Draft Bylaw is made.

### Legal considerations

24 The process for preparing and adopting a new bylaw is prescribed by the LGA02 and section 22AD of the Land Transport Act 1998.

### Financial considerations

25 There is sufficient budget available for the preparation of bylaws in operational budgets.

### Tāngata whenua considerations

26 There are no specific tāngata whenua considerations at this time.

## SIGNIFICANCE AND ENGAGEMENT

### Degree of significance

27 This bylaw has a low level of significance under Council policy.

### Consultation already undertaken

28 At this stage no public consultation has been undertaken. Should the Council approve release of the Draft Bylaw, consultation will be undertaken. The Police have been advised that the Draft Bylaw is being prepared.

## Engagement planning

- 29 The special consultative procedure under sections 83 and 86 of the LGA02 will be used to consult with the community on the draft 2015 Bylaw. This is a requirement of section 22AD of the Land Transport Act 1998 in any case.

## Publicity

- 30 The community will be informed of the opportunity to submit on the Draft Bylaw as required by the special consultative procedure. Presuming the bylaw is adopted, the Council will need to comply with the notification requirements in the LGA02 as well as section 22AE of the Land Transport Act 1998.

## RECOMMENDATIONS

- 31 That the Regulatory Management Committee:
- a. **determines** that a bylaw is the most appropriate way to address the need for a speed limits bylaw under the Land Transport Rule: Setting of Speed Limits 2003;
  - b. **determines**, subject to consultation, that the Draft Kāpiti Coast District Council Speed Limits Bylaw 2015 is the most appropriate form of bylaw and that any inconsistency with the New Zealand Bill of Rights Act 1990 is justified;
  - c. **adopts** the Statement of Proposal to Adopt the Kāpiti Coast District Council Speed Limits Bylaw 2015, as attached to report IS-15-1508; and
  - d. **agrees** that the Statement of Proposal is made publicly available as part of a special consultative procedure under sections 83 and 86 of the Local Government Act 2002.

Report prepared by	Approved for submission	Approved for submission
Sean Mallon	Stephen McArthur	Kevin Currie
Group Manager Infrastructure Services	Group Manager Strategy and Planning	Group Manager Regulatory Services

## ATTACHMENTS

Appendix 1: Statement of Proposal (including draft bylaw)

**KĀPITI COAST DISTRICT COUNCIL**

# **Statement of Proposal**

**PROPOSAL TO ADOPT THE KĀPITI COAST DISTRICT  
COUNCIL SPEED LIMITS BYLAW 2015**

**June 2015**

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**SUMMARY**

The Council is proposing to adopt the Draft Kāpiti Coast District Council Speed Limits Bylaw 2015 (**Draft Bylaw**).

The purpose of the Draft Bylaw is to ensure that the Council is able to set speed limits, by resolution, for roads under its ownership, control, or management, including in certain designated locations specified in the Draft Bylaw.

The Draft Bylaw provides for a number of drafting changes to simplify the bylaw and provide greater clarity. It is largely similar in substance to the 2005 Bylaw.

You are invited to make a submission on the Draft Bylaw.

Copies of the Statement of Proposal are available from Council Libraries and Service Centres, or by request through our Call Centre on (04) 296 4700.

***Making a submission***

Please refer to Methods for Making a Submission on Page 6 of this Statement of Proposal.

Submissions open on Monday 22 June 2015 and close at 4pm on Friday 24 July 2015.

### INTRODUCTION

The Kāpiti Coast District Council is responsible for setting speed limits for all roads under its ownership, control, or management. In order to ensure safety on roads, a bylaw has been considered the most appropriate means to regulate and control speed limits.

This Draft Bylaw allows the Council to set speed limits, by resolution, for roads under its ownership, control, or management. The Bylaw is made pursuant to the Local Government Act 2002 (LGA02), the Land Transport Act 1998, and the Land Transport Rule: Setting of Speed Limits 2003 (**Speed Limits Rule**).

The draft bylaw is based in part on a model bylaw prepared by the Land Transport Safety Authority for use by road controlling authorities as a template for speed limit bylaws. This ensures that the Draft Bylaw is consistent with national practice.

In accordance with sections 83 and 86 of the LGA02, and section 22AD of the Land Transport Act 1998, the Council gives the following notice in the form of a Statement of Proposal to adopt the Draft Bylaw.

### PROPOSAL

It is proposed to adopt the Draft Bylaw.

The intention of the Draft Bylaw is it:

- allows the Council, by resolution, to designate urban traffic areas, which are geographical areas in which roads are subject to 50 km/h speed limit;
- provides for the Council, by resolution, to make variable, minimum, and 90 km/h speed limits for any roads in its jurisdiction;
- allows for the Council, by resolution, to make or alter bylaw speed limits for roads in “designated locations”. These include:
  - car parks
  - educational or scientific institutions
  - health facilities
  - residential facilities
  - industrial facilities
  - camping ground
  - sports facility or recreation area
  - botanical garden
  - port or wharf area
  - airport
  - beach
  - cemetery
  - facility operated by New Zealand Defence Force
  - any other location approved by the Director Land Transport Safety.

## APPENDIX 1

In general, roads that are not in a designated urban traffic area will be rural roads, and subject to a 100 km/h speed limit under the Speed Limits Rule. However, the Council can change speed through variable, minimum, and 90 km/h speed limits, and for roads in designated locations, under the Draft Bylaw. In these situations, the Council may generally set speed limits of 10, 20, 30, 40, 50, 60, 70, 80, 90 or 100km/h.

The Council is required to establish and maintain a register of speed limits for roads under its jurisdiction under the Land Transport Rule: Setting of Speed Limits 2003 Rule 54001. The register must record the current speed limits as confirmed by the Council, and any changes to those speed limits by the Council (through resolutions setting new speed limits or designating new urban traffic areas). It does not need to record any temporary speed limits that are in place.

In general, the register will record the history of speed limits for roads within the Council's jurisdiction. The register is available for inspection by members of the public at the Council's offices during normal business hours.

In 2004 the Government passed the responsibility for setting speed limits on roads to the road controlling authorities. The various legal, technical and procedural requirements are contained in the Land Transport Rule: Setting of Speed Limits 2003 (**Speed Limits Rule**). Included in these requirements is the need to adopt a Speed Limit Bylaw which validates existing legal speed limits in the district and enables the Council to review and amend speed limits in the future.

Councils are required to have a speed limits bylaw pursuant to the Speed Limits Rule, meaning it is clear that a bylaw is the most appropriate way to deal with this matter.

Council officers consider that the Draft Bylaw is the most appropriate form of bylaw for the setting of speed limits. The alternative to this approach is that the speed limits are written into the Draft Bylaw itself. This effect of this would be to require an amendment to the bylaw every time a new speed limit is needed, requiring the Council to follow the prescribed LGA02 consultation process each time. This would use additional and unnecessary time and resource, given that the Council is already obliged to follow consultation processes under the Speed Limits Rule when setting bylaws. By establishing the proposed process in the draft Bylaw, the Council may legitimately make new speed limits without the need for the additional LGA02 process.

The Draft Bylaw provides for consultation on any proposed speed limits (under clause 5.3 in the draft Bylaw) because the Council, in preparing a proposal to change speed limits, is required to follow the Speed Limits Rule. The Rule requires consultation aimed at ensuring that any person affected by proposed changes to speed limits is consulted. The requirements to consult set out in the Speed Limits Rule are extensive.

In addition, road controlling authorities do not have the ability to arbitrarily set speed limits. There is a strict speed limit assessment process that is required to be followed in any assessment of new speed limits. This is required by the Speed Limits Rule and must be followed by all road controlling authorities to ensure national consistency of speed limits. The setting of new, lower speed limits on roads can only be done if the strict criteria laid down in the Speed Limits Rule are met. On existing roads this may require extensive roading control and environmental enhancements to lower the speed environment to match any new speed limit.

In short, the Draft Bylaw allows the Council, by resolution, to make speed limit changes in an efficient and lawful manner. The Draft Bylaw is therefore considered to be the most appropriate form of bylaw.

**NEW ZEALAND BILL OF RIGHTS IMPLICATIONS**

The Council must determine whether there are any implications for the bylaw under the New Zealand Bill of Rights Act 1990.

On its face, the Draft Bylaw might arguably be inconsistent with the right to freedom of movement in the Bill of Rights, as it places some limits on how people move about. Section 18(1) of the Bill of Rights provides that: *"everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand"*.

However, any such limits on the right of members of the public to move about that would be imposed under the Draft Bylaw are justified in order to ensure safety of all road users. Section 5 of the Bill of Rights provides that "the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". The Speed Limits Rule prescribes reasonable limits on the right to freedom of movement through its provision of a requirement for speed limit bylaws, and its processes for setting speed limits.

**CONSULTATIVE PROCEDURE**

Section 156 of the LGA02 requires that the Special Consultative Procedure be used for adoption or review or amendment of a Bylaw if the bylaw concerns a matter of significant interest or it is likely to have a significant impact on the public. In addition, section 22AD of the Land Transport Act 1998 requires the Council to use the special consultative procedure under the LGA02 when adopting a speed limits bylaw. Accordingly, the Council intends to use the Special Consultative Procedure in this case. The procedure requires the initiation of a formal submission process.

The proposed consultation plan is as follows:

<b>TASK</b>	<b>DATE</b>
Regulatory Management Committee approval of draft Bylaw and Statement of Proposal for public consultation	11 June 2015
Submissions Open for 31 days	22 June 2015
Submissions Close	24 July 2015
Regulatory Management Committee Hearing submissions	3 September 2015 TBC
Council decision on adoption of the bylaw	15 October 2015 TBC
Effective date of bylaw	TBD

**METHODS FOR MAKING A SUBMISSION**

Submissions can be made in writing or via the submission form.

*Printable form* (PDF, pages, Kb)

Submissions can be mailed to

Kāpiti Coast District Council  
Private Bag 60601  
Paraparaumu 5254

Submissions can be emailed to: [submissions@kapiticoast.govt.nz](mailto:submissions@kapiticoast.govt.nz)

Emailed submission must be headed: Proposed Speed Limits Bylaw 2015

**Submission Period**

Submissions open on Monday 27 June 2015 and close at 4pm on Friday 24 July 2015.

**HEARING OF SUBMISSIONS**

Persons making written submissions who wish to be heard by Council will be given the opportunity to do so. The time and venue for the hearing of submissions will be advised to submitters wishing to be heard. Submitters wishing to speak to the Council in support of their submission must indicate YES on Page 1 of the Official Submission Form.

**ATTACHMENTS**

Appendix 1: Proposed Speed Limits Bylaw 2015

Appendix 2: Submission form

**Appendix 1**

**KĀPITI COAST  
DISTRICT COUNCIL**

**Proposed Speed Limits  
Bylaw 2015**

**1. SCOPE**

*This Bylaw allows the Council to set speed limits, by resolution, for all roads under its ownership, control, or management.*

*The Bylaw is made pursuant to the Local Government Act 2002, the Land Transport Act 1998, and the Land Transport Rule: Setting of Speed Limits 2003.*

**2. COMMENCEMENT**

This Bylaw comes into force on [insert date].

**3. DEFINITIONS**

**Council** means the Kāpiti Coast District Council.

**Designated location** means any of the areas listed in section 4.1(2) of the Rule, including a car park, educational or scientific institution, industrial facility, health facility, residential facility, camping ground, sports facility or other recreational area, botanical garden, port or wharf area, airport, beach, cemetery, facility operated by the New Zealand Defence Force, and any other location approved by the New Zealand Transport Agency.

**Rule** means the Land Transport Rule: Setting of Speed Limits 2003.

Definitions of other words, phrases or expressions used in this Bylaw that are in the Land Transport Act 1998 or the Rule will apply to this Bylaw.

**4. APPLICATION OF THIS BYLAW**

4.1 This Bylaw applies to all roads under the Council's jurisdiction as a road controlling authority.

**5. SPEED LIMITS**

5.1 The Council may, by resolution,:

- a. designate, amend, or revoke an urban traffic area;
- b. set, amend, or revoke a permanent, holiday, variable, minimum, or 90 km/h speed limit for any road;
- c. set, amend, or revoke a speed limit for any road in a designated location.

5.2 In making a resolution under clause 5.1, the Council must state the date that the designation or speed limit comes into force.

5.3 The Council must comply with the Rule in making a resolution under clause 5.1.

- 5.4 After making a resolution under clause 5.1, the Council must record the matter in its register of speed limits and install speed limit signs and road markings, in accordance with the Rule.

**6 SAVINGS OF SPEED LIMITS MADE UNDER PREVIOUS BYLAW**

The speed limits made, saved, or validated under the Kāpiti Coast District Council Speed Limits Bylaw 2005 have effect until changed by resolution made under this Bylaw.

**7 KĀPITI COAST DISTRICT COUNCIL GENERAL BYLAW**

The provisions of the Kāpiti Coast General Bylaw 2010, and any bylaw passed in amendment or substitution, are implied into and form part of this Bylaw, except to the extent that they may be inconsistent with this Bylaw.

# Appendix 2

## SUBMISSION FORM

### Proposal to Adopt the Kāpiti Coast District Council Speed Limits Bylaw 2015

Title (circle) Mr Mrs Ms Miss

Name: .....

Street address: .....

.....

PO Box: .....

Post Code: .....

Phone Numbers Day: .....

Mobile Phone: .....

Fax Number: .....

Email Address: .....

I have attached .....pages to this submission

Do you want to speak to the Council in support of your submission?  Yes /  No

If you have ticked yes then we will contact you about the timing of the hearing which will take place in July 2015.

Please provide organisation name if you are submitting on behalf of an organisation:

.....

Signature: .....

(Signature of person making submission or person authorised to sign on behalf of person making submission)

Date:.....

Please note that feedback (including names and contact details) will be made publicly available at council offices, public libraries and on the Kāpiti Coast District Council website. A summary of feedback, including the name of the submitter may also be made available. Personal information will also be used for administration relating to the subject matter of the feedback, including notifying submitters of subsequent steps and decisions. All information will be held by the Kāpiti Coast District Council, with submitters having the right to access and correct personal information.



Office Use only

File Ref:

Submission No:

Date Received:

**Submissions close:**

**4pm, Friday 24 July 2015**

*Please send your feedback to:  
Kāpiti Coast District Council  
Private Bag 60601  
PARAPARAUMU*

*Fax: 04 296 4830*

*Email:  
[submissions@kapiticoast.govt.nz](mailto:submissions@kapiticoast.govt.nz)*

*or deliver to*

*Waikanae Service Centre,  
Mahara Place, Waikanae  
Ōtaki Service Centre,  
Main Street, Ōtaki*

