

4. CHRISTCHURCH CITY SPEED LIMITS BYLAW



General Manager responsible:	General Manager City Environment, DDI 941-8608
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PURPOSE OF REPORT

1. The purpose of this report is to summarise the review of the current speed limit bylaws and to recommend the adoption of a new speed limits bylaw to the Council for consultation.

EXECUTIVE SUMMARY

2. The Council currently has two bylaws relating to speed limits:
 - (a) Christchurch City Speed Limits Bylaw 2005
 - (b) Banks Peninsula District Council Speed Limit Bylaw November 2005.
3. The purpose of these bylaws is to provide the mechanism¹ to enable the Council to set speed limits for all roads under its jurisdiction, which it does in accordance with the Land Transport Rule: Setting of Speed Limits 2003 (Rule 54001), (the Rule).
4. The two existing bylaws are made under the powers in both the Local Government Act 1974 and the Local Government Act 2002. The Local Government Act 2002 (section 158(1)) requires that bylaws made under the 2002 Act are reviewed no later than five years after being made, in the first instance, and every ten years thereafter (section 159). As such, these two bylaws need to be reviewed by 7 April 2010 and 9 November 2010, respectively. Commencing the review process now should ensure that the April 2010 date is met.
5. A review of the bylaws has been undertaken by way of an analysis of the clauses in both of the existing bylaws. This systematically sets out each clause in the two existing bylaws, and states whether the clause should be retained, altered or removed. This also serves as part of the consideration under section 155 of the Local Government Act 2002, as to whether a bylaw is the most appropriate way to address the problem and is an appropriate form. The proposed new bylaw can be found in **Attachment 1**.
6. This report recommends the revocation of both bylaws, and their replacement with a new bylaw covering the whole of the new Christchurch City Council district. There are a number of other changes in the bylaw, including that all of the Banks Peninsula speed limits, which are currently included in a schedule to the Bylaw, will be transferred to the Christchurch City Register of Speed Limits. This register sits outside the bylaw and is required to be kept under section 7.3 of the Rule. The bylaw has also been modernised, resulting in a shorter, clearer bylaw, with clauses added to align it with other Council bylaws. Existing clauses that are covered by other legislation have been removed from the bylaw or moved to explanatory notes to the bylaw.
7. The proposed new bylaw will be made under section 684(13) of the Local Government Act 1974 and section 145 of the Local Government Act 2002, and as required by the Rule. Such a bylaw can only be made to cover roads within the Christchurch City Council's district where the Council is the road controlling authority (ie not roads over which the New Zealand Transport Agency is the road controlling authority eg state highways). Any amendment, revocation or new bylaw must be made using the Special Consultative Procedure set out in the Local Government Act 2002.
8. The bylaw is the mechanism for setting speed limits and a breach of a speed limit is not a breach of the bylaw itself, but a breach of other transport-related legislation². Enforcement in relation to breaches of speed limits is the responsibility of the Police, not the Council, as only the Police can enforce moving vehicle offences.

¹ Required by the Land Transport Rule: Setting of Speed Limits 2003

² A breach of a speed limit is a breach of section 5 of the Land Transport (Road User) Rule 2004, which is an infringement offence against the Land Transport Act 1998, and may be liable to an infringement fee as specified in Section 1B of the Land Transport (Offence and Penalties) Regulations 1999.

9. Council staff have been reviewing many of the speed limits across the city, and on Banks Peninsula in particular, using the guidelines and calculation process in the Rule (called Speed Limits New Zealand). Following the adoption of the new bylaw, the Council will be in a position to carry out consultation on speed limits that, in accordance with the review, indicate they should be changed. That consultation will be carried out in accordance with the requirements in the Rule. The likely process will be that all the roads in a Community Board area that are recommended for a speed limit or urban traffic area change will be put to the Community Board first and then a report prepared to Council seeking approval to consult on those proposed speed limit changes. Any changes will then be reflected in the Christchurch City Register of Speed Limits.

FINANCIAL IMPLICATIONS

10. There are no specific financial implications from this bylaw review other than the cost of the special consultative procedure.

DO THE RECOMMENDATIONS OF THIS REPORT ALIGN WITH 2009-19 LTCCP BUDGETS?

11. The estimated cost for the review, consultation and hearings process is to be funded from the 2009/10 Traffic Network Operations budget.

LEGAL CONSIDERATIONS

12. This process is being carried out in accordance with:
 - (a) The bylaw-making powers in section 684(13) of the Local Government Act 1974 (i.e. the power to make bylaws concerning roads).
 - (b) The bylaw-making powers in the Local Government Act 2002 (s 145) ie the power to make bylaws for "protecting, promoting, and maintaining public health and safety".
 - (c) The requirements set out in the Local Government Act 2002 for establishing, amending or revoking bylaws (ie sections 83, 86, 155 and 156).
 - (d) The requirements in the Rule.
13. Section 7.2 of the Rule provides that a road controlling authority that is empowered by an enactment to make bylaws must set a speed limit under the Rule by making a bylaw in accordance with that enactment. The powers the Council uses to make such a bylaw are found in both the Local Government Acts 1974 and 2002. In particular, section 684(13) of the Local Government Act 1974 empowers the Council 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", while section 145 of the Local Government Act 2002 contains a more general bylaw-making power which includes for the purpose of "protecting, promoting, and maintaining public health and safety". Setting appropriate speed limits for roads relates to maintaining public health and safety.
14. The Local Government Act 2002 also requires that bylaws are reviewed within five years of when they were first made³. The Christchurch City Council Speed Limit Bylaw 2005 must be reviewed by 7 April 2010 and the former Banks Peninsula District Council Speed Limit Bylaw 2005 must be reviewed by 9 November 2010.
15. The process in the Local Government Act 2002 for making, amending or revoking bylaws is outlined in sections 83, 86, 155 and 156 of the Act. If the Council agrees to adopt the attached proposed bylaw, it is required to approve the draft Statement of Proposal (**Attachment 2**) and Summary of Information (**Attachment 3**) for consultation, agree a submissions closing date and should appoint a hearing panel to hear any oral submissions on the proposal and deliberate on any matters raised in submissions.

³ s.158(1) - Review of bylaws made under this Act or the Local Government Act 1974

16. The Council must comply with the matters in section 155 of that Act, which requires that the local authority must determine whether the bylaw is the most appropriate way of addressing the perceived problem(s), and once that has been determined, that the bylaw is in the most appropriate form and it does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
17. Given that this bylaw must be made to provide the mechanism required by the Rule for the setting of speed limits, it is not difficult to show that a bylaw is the most appropriate tool in this instance. However, it is clear that not all of the clauses found in the current bylaws are necessary, and the form of some of the clauses can be improved.
18. There are no implications in terms of the New Zealand Bill of Rights Act as the bylaw only provides the regulatory means by which speed limits and urban traffic areas can be set and then the Council must apply the Rule in determining the appropriate speed limits, carrying out consultation new or amended speed limits, and on urban traffic areas, which are then listed in the Christchurch City Register of Speed Limits.

HAVE YOU CONSIDERED THE LEGAL IMPLICATIONS OF THE ISSUE UNDER CONSIDERATION?

19. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

20. Aligns with the Streets and Transport activities by contributing to the Council's Community Outcomes -Safety and Community.

DO THE RECOMMENDATIONS OF THIS REPORT SUPPORT A LEVEL OF SERVICE OR PROJECT IN THE 2009-19 LTCCP?

21. As above.

ALIGNMENT WITH STRATEGIES

22. The recommendations align with the Road Safety Strategy 2004 and the Safer Christchurch Strategy 2005.

DO THE RECOMMENDATIONS ALIGN WITH THE COUNCIL'S STRATEGIES?

23. As above.

STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee **recommend** to the Council that:

- (a) The attached proposed bylaw meets the requirements of section 155 of the Local Government Act 2002.
- (b) The attached Statement of Proposal (which includes the proposed Bylaw) and attached Summary of Information be adopted for consultation in accordance with the Special Consultative Procedure.
- (d) Public notice of the consultation be given in The Press and Christchurch Star newspapers and on the Council's website, and that public notice of the proposal be given in the Akaroa Mail and other community newspapers distributed in the Christchurch area, as close as possible to the approval of these recommendations.
- (e) The period within which written submissions may be made to the Council be between 30 September and 2 November 2009.
- (f) A hearings panel be appointed to hear submissions, deliberate on those submissions and to report back to the Council on the final form of the bylaw.
- (g) That Council note that once the new bylaw is adopted there will be a number of speed limits reviews that will need to be consulted on.

BACKGROUND

Introduction

24. Speed limit bylaws are the mechanism through which the Council sets speed limits, and is a requirement of the Land Transport Rule: Setting of Speed Limits 2003 (the Rule). The speed limits themselves must be specified in a register which is also required to be kept by the Rule. When amending the bylaw, the special consultative procedure (as set out in the Local Government Act 2002) must be used. When amending or establishing speed limits, the consultation specified in the Rule must be used. This consultation process is to make a new bylaw. Changes to some speed limits will be consulted on, using the process in the Rule, once the new bylaw is in place. This will result in changes to the Christchurch City Register of Speed Limits.

Changes to the bylaw

25. The proposed new bylaw will replace the Christchurch City Speed Limits Bylaw 2005 and the Banks Peninsula District Speed Limit Bylaw November 2005. The main changes in the proposed new bylaw include:
- (a) The proposed new bylaw will apply to the whole of the Council's district (whereas the existing two bylaws cover the old Christchurch City district area and the now amalgamated Banks Peninsula District Council area, respectively);
 - (b) The speed limits set on the roads in the former Banks Peninsula District Council area will be recorded in the register and not in a schedule to the bylaw, as was done previously. If necessary, speed limit amendments can be made by amending the register, in accordance with the consultation specified in the Rule;
 - (c) The bylaw has been simplified and modernised, resulting in a shorter, clearer bylaw;
 - (d) Those clauses covered by other legislation have been removed from the bylaw or moved to explanatory notes to the bylaw;
 - (e) New clauses have been added to align the bylaw with the Council's other bylaws.

How the bylaw, the setting of speed limits and the speed limits register relate to each other

26. The bylaw is the mechanism through which the Council sets speed limits. This sets out, for example, the ability of the Council to alter a speed limit by resolution and indicates that this can be done if the Rule has been complied with, which includes complying with the consultation obligations specified in the Rule.
27. Any proposed changes to a speed limit must also comply with the Rule in terms of the technical aspects of how speed limits are calculated (ie the function of a road, the number and nature of side roads, roadside development, etc).
28. The speed limits themselves (once consulted on) are then specified in a register (the Christchurch City Register of Speed Limits) which is required to be kept by section 7.3 of the Rule. As the speed limits are specified in a register, they can be amended, subject to the consultation requirements in the Rule, without the bylaw itself needing to be changed. This is because the register is not part of the bylaw, but complements it. Whereas if the bylaw has to be changed, the special consultative procedure under the Local Government Act 2002 must be used.

Proposed timetable

29. The proposed timetable for the completion of this review amend Statement of Proposal / Summary of Information timeframes as required as well.

3 September 2009	Report to Regulatory and Planning Committee
24 September 2009	Regulatory and Planning Committee report to Council seeking agreement to undertake consultation
30 September to 2 November 2009	Consultation period
2 November 2009	Closing date for written submissions
Early November 2009	Preparation of summary and analysis of submissions
23 November to 1 December 2009	Public hearings
December 2009	Preparation of hearing panel report
10 December 2009 or February 2010	Hearing panel report to Council recommending the adoption of the Bylaw

THE OBJECTIVES

30. To create one speed limit bylaw to cover the whole of the Council's district and to provide the mechanism required by the Rule to enable the Council to set speed limits for all roads under its jurisdiction.
31. To be able to set new speed limits, or alter speed limits, by resolution, following the consultation requirements in the Rule (ie by specifying them in a register, rather than in a schedule to a bylaw).
32. To complete the legal requirements to review bylaws within five years.

THE OPTIONS

33. **Option 1.** Status Quo, retain the two existing bylaws and review them to comply with legal requirements in the future.
34. **Option 2.** Revoke the former Banks Peninsula District Council Speed Limit Bylaw 2005 and amalgamate it with the Christchurch City Speed Limits Bylaw 2005 and retain the existing speed limits and review them at a different time.
35. **Option 3.** Revoke the two existing bylaws and create a new bylaw to cover all roads under the Council's jurisdiction (transferring the speed limits currently within the Banks Peninsula bylaw schedule to the Christchurch City Register of Speed Limits) and review the existing speed limits at a different time.
36. **Option 4.** Revoke the two existing bylaws and create a new updated bylaw that would cover all roads under the Council's jurisdiction and to review and update the existing speed limits and urban traffic areas concurrently.

PREFERRED OPTION

37. **Option 3** is the preferred option as it:
- (a) Provides a single bylaw to cover the whole district (i.e. the Christchurch City Council district, post amalgamation with the former Banks Peninsula District Council area in 2006)
 - (b) Moves the Banks Peninsula speed limits from the bylaw schedule into the Christchurch City Register of Speed Limits, thus allowing them to be altered using the process set out in the bylaw, in compliance with the Rule, rather than through an amendment to the bylaw (and undertaking a special consultative procedure)

- (c) Will update the bylaw so that it is simpler, clearer and aligns with other Council bylaws
- (d) Will meet the legal requirements to review the speed limit bylaws within five years of when they were last made
- (e) Will not overlap consultation on the bylaw with consultation on speed limit changes, which can then be done in Community Board area groups of roads, and
- (f) When reviewing the speed limits, instead of consulting the community generally through a special consultative procedure, the local community considered to be affected by the proposed speed limit will be consulted with directly in accordance with the consultation requirements of the Rule.

ASSESSMENT OF OPTIONS

The Preferred Option

Option 3 – Revoke the two existing bylaw and to create a new bylaw to cover all roads under the Council's jurisdiction and to review the existing speed limits at a different time and to transfer the speed limits currently within the Banks Peninsula bylaw schedule to the Christchurch City Register of Speed Limits.

	Benefits (current and future)	Costs (current and future)
Social	Will provide a single easy to understand bylaw.	Nil
Cultural	Revoking two bylaws and replacing them with one easier to understand bylaw may have cultural benefits	N/A
Environmental	Bylaw allows for the setting of speed limits in accordance with the legal requirements	N/A
Economic	Nil.	N/A
Extent to which community outcomes are achieved:		
<p>The creation of a single bylaw will allow the Christchurch City Council to make speed limit changes by resolution, following the consultation process in the Rule (rather than the special consultative procedure). The proposal to review speed limits at a later date aligns with Council's Community Outcomes - Safety and Community. The fact that this is not done at the same time as the bylaw review is likely to simplify the consultation process for the community, even though updating the speed limits will be delayed slightly.</p>		
Impact on the Council's capacity and responsibilities:		
<p>This option means the Local Government Act 2002 requirement to review the bylaw no later than five years will be met.</p>		
Effects on Māori:		
<p>No specific effects identified</p>		
Consistency with existing Council policies:		
<p>The Council does not have policies on the bylaw review process or setting speed limits, but previous practice is that these processes are kept separate.</p>		
Views and preferences of persons affected or likely to have an interest:		
<p>Consultation on the new bylaw will be carried out in accordance with the special consultative procedure and then the speed limits reviews, to be done later, can be consulted on using the process in the Rule. Some people may prefer that the speed limits be reviewed sooner rather than later, but in the interests of a more straightforward consultation process, carried out appropriately under the two different consultation regimes, it is considered appropriate to review the bylaws first and then in a few months, once the bylaw is adopted, begin the speed limit reviews.</p>		
Other relevant matters:		
<p>Nil.</p>		

Other Options

Option 4 – To revoke the two existing bylaws and create a new updated bylaw that would cover all roads under the Council's jurisdiction and to review and update the existing speed limits and urban traffic areas concurrently.

	Benefits (current and future)	Costs (current and future)
Social	Will provide a single easy to understand bylaw, and will also update speed limits on the road under the Councils jurisdiction.	Nil
Cultural	Revoking two bylaws and replacing them with one easier to understand bylaw may have cultural benefits	N/A
Environmental	Bylaw allows for the setting of speed limits in accordance with the legal requirements and for speed limits to be set considering the environmental developments.	N/A
Economic	Nil.	N/A
<p>Extent to which community outcomes are achieved:</p> <p>The creation of a single bylaw will allow the Christchurch City Council to make speed limit changes by resolution. Reviewing the speed limits at the same time will maintain the setting of consistent speed limits in the Christchurch district due to new subdivision developments, the changing use and environment of other roads, and provide appropriate amendments to urban traffic areas to reflect the area more appropriately. This aligns with Community Outcome: Safety and Community.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>This option means the Local Government Act 2002 requirement to review the bylaw no later than five years will be met.</p> <p>Effects on Māori:</p> <p>No specific effects identified</p> <p>Consistency with existing Council policies:</p> <p>The Council does not have policies on the bylaw review process or setting speed limits, but previous practice is that these processes are kept separate.</p> <p>Views and preferences of persons affected or likely to have an interest:</p> <p>Consultation would be carried out as required by the Local Government Act 2002 for a bylaw review and by the Land Transport Rule, Setting of Speed Limits 2003 for speed limit changes.</p> <p>Other relevant matters:</p> <p>Nil.</p>		

Option 1 – Maintain Status Quo.

	Benefits (current and future)	Costs (current and future)
Social	Maintaining the Status Quo would not provide any additional social benefits.	N/A
Cultural	N/A	N/A
Environmental	N/A	N/A
Economic	N/A	N/A
<p>Extent to which community outcomes are achieved:</p> <p>This option is not recommended as both bylaws must be reviewed within five years of being made. (Local Government Act 2002) Currently both bylaws require a different process to set or change a speed limit.</p> <p>Impact on the Council's capacity and responsibilities:</p> <p>If the Status Quo was maintained the Council would not be complying with legal requirements.</p>		

Effects on Māori:

N/A.

Consistency with existing Council policies:

To maintain Status Quo would not be consistent with Council policies.

Views and preferences of persons affected or likely to have an interest:

N/A.

Other relevant matters:

Nil.

Option 2 – Revoke the former Banks Peninsula District Council Bylaw. To retain the existing speed limits and review them at a different time.

	Benefits (current and future)	Costs (current and future)
Social	To create one bylaw enables the Council to set consistent speed limits on roads under its jurisdiction.	N/A
Cultural	N/A	N/A
Environmental	N/A	N/A
Economic	N/A	N/A

Extent to which community outcomes are achieved:

To create one bylaw would allow the Council to set consistent speed limits on the roads under its jurisdiction. However, speed limits must also be reviewed due to new subdivision developments, and the changing use and environment of other roads.

Impact on the Council's capacity and responsibilities:

Would not support the Council's responsibilities to the community.

Effects on Māori:

N/A.

Consistency with existing Council policies:

Would not support the Council's Community Outcomes - Safety and Community.

Views and preferences of persons affected or likely to have an interest:

N/A.

Other relevant matters:

Nil.