



0 50 100 200 Meters

 Liquor Ban Area

SCHEDULE 3  
MAP 30

Designated Liquor Ban Area  
Piha



  
Waitakere City Council  
Te Taiao o Waitakere

## **Statement of Proposal**

### **Introduction**

Waitakere City Council is reviewing the Waitakere City Speed Limits Bylaw 2005 that controls the maximum speed that vehicles can travel on roads in Waitakere City and is proposing changes.

Section 145 of the Local Government Act 2002 ["LGA 2002"] provides for the Council to make bylaws for the purpose of protecting, promoting, and maintaining public health and safety.

The LGA 2002 requires that Waitakere City Council follows the special consultative procedure to make the proposed bylaw. This Statement of Proposal has been prepared in accordance with the requirements set out in section 86 of LGA 2002 for the adoption of the special consultative procedure.

It includes:

- The reasons for the proposal;
- Consideration of whether a bylaw is the most appropriate way to address the perceived problem;
- Whether the proposed bylaw is the most appropriate form of bylaw;
- Implications under the New Zealand Bill of Rights Act 1990;
- A draft of the proposed bylaw.

### **Reason for the proposal**

Waitakere City Council has previously made a speed limit bylaw in 2005. Under the Land Transport Rule 54001: Setting of Speed Limits 2003, Council is obligated to review speed limits when:

- There is a significant change in the nature, scale or intensity of land use adjacent to a road; or
- There is a significant change in a road, its environment or its use; or
- It receives a written request to do so from the Director (of Land Transport Safety).

Council also has the discretion to review a speed limit if:

- It decides to do so; or
- It receives a written request to do so from a person, organisation or road user group affected by that speed limit.

A review of speed limits against the criteria set out in the Land Transport Rule 54001: Setting of Speed Limits 2003 has identified numerous sites where changes in land use now justify changes to the speed limit. These are predominantly in rural areas where the development of lifestyle blocks has resulted in the roads qualifying for 80 or 70 kilometre per hour speed limits to replace the existing default rural limit of 100 kilometres per hour. A small number of sites have also been identified where urban subdivisions on the edges of the urban area justify extensions to the 50 kilometre per hour urban traffic area. The bylaw also includes the establishment of a number of 40 kilometre per hour school speed zones.

Council has already undertaken consultation with regional representatives of the New Zealand Police and the New Zealand Transport Agency. Consultation with the New

Zealand Transport Agency has been extensive and detailed in order to gauge the likely recommendations that their regional staff will make to the Director of Land Transport Safety in response to the formal consultation of the bylaw change.

### **Considerations on whether a bylaw is the most appropriate response**

As part of its decision-making process Council is required to identify and assess all reasonably practicable strategies that could provide the desired solution. Making a bylaw is specifically prescribed by the Land Transport Rule 54001: Setting of Speed Limits 2003 as the method for setting speed limits.

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

In drafting the proposed speed limit bylaw, Council must determine whether the proposed bylaw is the most appropriate form of bylaw. Waitakere City Council believes it has developed the most appropriate form of bylaw.

### **New Zealand Bill of Rights Act 1990**

In addition to the considerations undertaken above, the proposed bylaw must meet the legal standards of reasonableness, and cannot be inconsistent with the freedoms protected and affirmed in the New Zealand Bill of Rights Act 1990. The proposed bylaw, by limiting the maximum speed of travel on the road network, may impact on the freedom of movement affirmed in section 18 of the Act. However, on balance, the limits being imposed on that freedom of movement are reasonable and justifiable in the circumstances, as allowed for in section 5 of the Act. On this basis, it is concluded that the proposed bylaw does not breach or unnecessarily interfere with rights protected by the Bill of Rights Act.

### **Explanation of bylaw provisions**

The bylaw sets maximum speed limits for each length of road in accordance with the process prescribed under the Land Transport Rule 54001: Setting of Speed Limits 2003. These speed limits are based largely on the level of road-side development and not the actual operating speeds of the roads.

The requirement for drivers to comply with the speed limit is contained within Part 5 of the Land Transport (Road User) Rule 2004 which states:

#### *5.1 Drivers must not exceed speed limits*

- (1) *A driver must not drive a vehicle at a speed exceeding the applicable speed limit (being a permanent, variable, holiday, urban, rural, temporary, or other speed limit).*
- (2) *The fact that a vehicle is driven at a speed that does not exceed the applicable speed limit does not excuse an alleged breach of a provision of any other Part of this rule.*

There are numerous situations where the Land Transport (Road User) Rule imposes a lesser speed, including (but not limited to) the following examples.

- Maximum speed for heavy vehicles (90kph)
- Maximum speed for a vehicle towing a trailer or another vehicle (90kph)

- Maximum speed when overtaking a stationary school bus stopped for the purpose of discharging or embarking passengers (20kph)
- Maximum speed as determined by the available stopping distance (varies, limited by visibility and road geometry)
- Requirement to stay within marked lanes and/or to the left side of the carriageway (varies, limited by the geometry of the road)
- Maximum speed as determined by the minimum following distance (varies, limited by speed of, and separation to, the vehicle ahead)
- Requirement to slow down or stop at various forms of traffic control eg. give way signs, stop signs, traffic signals, pedestrian crossings, etc (varies, limited by sight distance, presence of opposing traffic, signal displayed, and/or specific requirement that the vehicle come to a stop before proceeding).

Enforcement of breaches of the Land Transport (Road User) Rule in regard to moving vehicles is carried out by the New Zealand Police. The penalties for breaching speed limits which can include fines, demerit points, and suspension of licences are set by central Government.

### **Public notices**

Council will be required to publicly notify the adoption of the bylaw in accordance with section 157 of the LGA 2002. In addition, Council will be required to signpost the speed limits in accordance with Section 8 of the Land Transport Rule 54001: Setting of Speed Limits 2003.

## **Summary of Information**

Waitakere City Council is currently seeking feedback on a proposed review of the Waitakere City Speed Limits Bylaw 2005.

Waitakere City Council has determined that a bylaw is the most appropriate means to impose maximum speed limits on roads, for the purpose of protecting, promoting and maintaining public health and safety.

Waitakere City Council has drafted a bylaw in accordance with the Local Government Act 2002 ["LGA 2002"] and the Land Transport Rule 54001: Setting of Speed Limits 2003. The bylaw sets maximum speed limits that will apply to each road or section of road under the control of Waitakere City Council. The changes to be made from the 2005 bylaw are identified in the draft.

The maximum speed limits under the bylaw are only applicable where a lesser speed limit is not imposed or implied by the Land Transport (Road User) Rule 2004 due to other factors such as:

- The class of vehicle being driven
- The available stopping distance
- Road geometry
- Road conditions and/or weather conditions
- The requirement to comply with other traffic controls (signs and or road markings).

The bylaw will be enforced by the New Zealand Police.

For a copy of the Statement of Proposal (including draft bylaw) and information about making a submission, please visit the Waitakere City Council Customer Services Centre, Level 2, Waitakere Central; any Waitakere City Council library; Council's website at [www.waitakere.govt.nz](http://www.waitakere.govt.nz) or contact Council's Call Centre on 839 0400.

The period for making written submissions will open on the ## of <month> 20XX and close at 4.00pm on the ## of <month> 2010. People making written submissions have the option of presenting their submissions at a Draft Speed Limit Bylaw hearing, which will be held by Council at a later date. Submissions should be sent to Waitakere City Council, Attention Adam Moller, Transport Assets, Private Bag 93109, Waitakere 0650.