

Proposed Traffic Bylaw and Speed Limits Bylaw Consultation

GLOSSARY

Auckland Transport	(AT)
Auckland Council	(AC)
Bylaws made by the previous Auckland councils	(legacy bylaws)
Local Government Act 2002	(LGA02)
Local Government (Auckland Council) Act 2009	(LGACA)
Local Government Official Information and Meetings Act 1987	(LGOIMA)
Land Transport Act 1998	(LTA98)
Road Controlling Authority	(RCA)
Special Consultative Procedure	(SCP)

EXECUTIVE SUMMARY

This report seeks the AT Board approval to undertake public consultation on proposed bylaws for traffic, parking and speed limit related matters for the roads that AT is the RCA for. Approval of the Statement of Proposal is a required step in the SCP.

AT is responsible for all the transport-related legacy bylaws that relate to the Auckland transport system. AT has the power to make bylaws under the Land Transport Act 1998 and Local Government Act 2002 for matters including traffic controls, parking restrictions, speed limits, signage visible from roads, vehicle crossings, pedlars and street trading and construction over or under roads.

Review of the legacy bylaws has resulted in priority being given to consolidating the traffic control and speed limit bylaw provisions into new region-wide bylaws. Bylaws relating to the management of the road corridor and public transport infrastructure will be made after further discussions with AC on consistency of approach for their bylaws and Unitary Plan.

The proposed Traffic Bylaw and Speed Limits Bylaw predominantly set in place a framework under which particular traffic controls and speed limits can be set by resolutions passed under the bylaws for specific locations and conditions. As is currently the case for the legacy bylaws, the power to make these resolutions will be delegated to the Traffic Control Committee. A few traffic controls are set out directly in the Traffic Bylaw to apply across the region (for example not parking on a cultivated berm and not leaving machinery or freight containers on the road without permission). The Speed Limits bylaw will also contain a schedule setting out all current speed limits.

AT has statutory power as an RCA to make bylaws under the LTA98, and under section 46 of LGACA is also able to utilise the bylaw making powers of a local authority whilst not actually being one for the purposes of that Act. The LTA98 sets out different bylaw making processes for RCAs that are, or are not, local authorities. As AT is not a local authority for these purposes, it is not required by the Act to undertake the more exacting SCP process when making a bylaw. However, on balance it is recommended that the SCP be used in addition to required consultation as it may be seen to be more transparent, to be consistent with AC's approach, and to avoid the possibility of any legal challenge arising from not choosing to use that process.

Initial consultation has been undertaken with the Police and NZTA for their technical input. The Police have responded favourably to the draft bylaws. Discussions are continuing with NZTA over a technical point about the source of the power for making speed limit bylaws. It is proposed that with the Board's approval, consultation will next be undertaken with key stakeholders: AC and its Local Boards, the Maori Statutory Board, iwi, the AA and the Road Transport Forum. Following the review of any comments, and the making of any drafting amendments, the proposed bylaws will be released for general public consultation.

The Board are authorised to make bylaws, but must do so in a public meeting held in accordance with the LGOIMA.

RECOMMENDATIONS:

It is recommended that the Board:

- i). Receives this report.
- ii). Approves the decision to follow the SCP process for the AT bylaws.
- iii). Approves the commencement of public consultation on the attached Statement of Proposal and draft bylaws.

CONTENTS OF THE DRAFT BYLAWS

The Traffic Bylaw will allow for the imposition of traffic controls (including parking) on the roads under the care, management or control of Auckland Transport in accordance with the bylaw making powers set out in the Land Transport Act 1998 and the Speed Limits Bylaw will allow for Auckland Transport to set permanent, holiday and variable speed limits and determine the urban traffic areas in relation to the roads under its care management or control. A detailed clause by clause description of the draft bylaws is set out in the attached Statement of Proposal, but briefly the content of the bylaws is as follows:

Auckland Transport Traffic Bylaw

The Traffic Bylaw allows for AT (by way of the Traffic Control Committee) to pass resolutions specifying that roads will have various traffic and parking controls placed on them. Such controls will be able to be applied to entire roads or parts of roads or zones encompassing multiple roads. Controls will be able to be tailored as appropriate to apply to all forms of traffic, or to vehicles, motor vehicles or classes of motor vehicles.

The bylaw allows for the creation of one way roads; special vehicle lanes; cycle paths; and shared zones. It allows for the banning of left, right and U-turns; engine breaking; cruising; and the use of roads by vehicles depending on size, weight and nature of goods carried. It enables the placing of controls on the use of unformed legal roads and specifying the routes or manoeuvres to be followed at intersections or other places.

In relation to parking the Traffic Bylaw allows for the complete prohibition of stopping or standing; the restriction of parking places by time limits, pay and display controls or the nature of the vehicle or user or the vehicle (including the disabled or residents of an area). The bylaw prohibits parking vehicles on areas of the roadway laid out as cultivated berms in urban areas and the display of vehicles for sale (except when being used for normal activities). The bylaw also prohibits leaving machinery or equipment on the roadway; using the roadway for undertaking major repairs or modifications to vehicles; or the parking of vehicles without motive power on the roadway for more than seven days.

Auckland Transport Speed Limits Bylaw

The Speed Limits Bylaw allows for AT as the RCA to set the speed limits on roads in accordance with the procedures set out in the Land Transport Rule: Setting of Speed Limits 2003. In accordance with the bylaw powers set out in the LTA98 and the Bylaws Act 1910 the bylaw allows for AT (or its delegate) to set speed limits by resolutions made under the bylaw. The Bylaw allows for the general distinction between 50 kph and 100 kph zones to be set by specifying the urban traffic area. Additionally the bylaw allows for resolutions to be made specifying that other speed limits apply to specified roads.

The Bylaw also saves all previous speed limits set by the previous councils of the Auckland region and consolidates those speed limits into a schedule using a single consistent style. This schedule will be correct at the point in time that it is made but as it forms part of the bylaw it cannot be amended using the resolution process. AT will maintain a separate Register of Speed Limits as required by the Rule which will be kept up to date as changes are made by resolution.

NEXT STEPS

Consultation

- December 2011 through until February 2012 - Consultation will be undertaken with major stakeholders (including Auckland Council, the Local Boards, Maori Statutory Board, the AA and the Road Transport Forum).
- February and March 2012 - Consultation with the public will be undertaken.
- April and May 2012 - The submissions on the bylaws will be summarised and a report prepared for the public hearing. A Public Hearing will be held in accordance with SCP. Changes made to the draft bylaws arising from the submissions which will be considered by external legal reviewers and the AT Steering Group.

Making the Bylaws

- May/June 2012 - The bylaws will be made by the AT Board of Directors.

Notify the Minister of the Bylaws

- The Minister of Transport must be notified within one week after a bylaw is made.

Public Notice of the Bylaws

- The notice will confirm the date the bylaws come into effect which is expected to be in late June/early July.

ATTACHMENTS

Attachment 1: Statement of Proposal – the main consultation document required as part of an SCP process. The Statement of Proposal sets out the details of the consultation; the reasons for making the bylaws; the options considered; any issues in relation to the NZ Bill of Rights Act raised by the proposed bylaws; information on how public notice is given of the bylaw and how the public can make submissions; as well as a clause by clause summary of the proposed bylaws. It is a requirement of the SCP process that the Statement of Proposal be included on an agenda of a public meeting of the AT Board of Directors.

Attachment 2: Draft Auckland Transport Traffic Bylaw and Attachment 3: Draft Auckland Transport Speed Limits Bylaw – draft bylaws that will accompany the Statement of Proposal for the consultation with key stakeholders. (Minor refinements may be made to these prior to the general public consultation on the basis of comments made by the key stakeholders.)

Attachment 4: Background Information –briefing material in relation to the bylaws project and proposed consultation. This includes the strategic context of the bylaws, background information on AT’s legal powers with regard to making bylaws, consultation methods and the options considered.

WRITTEN BY	Terry Sugrue Regulation and Standards Manager	
APPROVED FOR SUBMISSION by	David Warburton Chief Executive	

STATEMENT OF PROPOSAL

AUCKLAND TRANSPORT TRAFFIC BYLAW 2012 and AUCKLAND TRANSPORT SPEED LIMIT BYLAW 2012 STATEMENT OF PROPOSAL

1. Introduction

With the establishment of Auckland Council and its council controlled organisations on 1 November 2010, the transport related bylaws that regulate traffic, parking and the setting of speed limits in the Auckland region (“legacy bylaws”) remain in effect in the areas where they had applied until they are reviewed. The legislation establishing Auckland Council and its council controlled organisations empowered Auckland Transport to review the legacy bylaws and make bylaws in relation to the Auckland transport system pursuant to the Land Transport Act 1998. (The Auckland transport system includes the public transport infrastructure and roads of Auckland other than motorways and state highways). As a road controlling authority, Auckland Transport may also exercise any regulatory function relating to roads beyond the Auckland transport system that are under its care, control or management pursuant to delegation under the Land Transport Act 1998.

This statement of proposal outlines the issues, the options that Auckland Transport has considered, the reasons for Auckland Transport determining that bylaws to regulate traffic, parking and the setting of speed limits are appropriate, and the issues that are to be regulated. It is proposed that controls relating to traffic and parking will be regulated by one bylaw and the setting of speed limits will be covered by a separate bylaw.

To ensure that Auckland Transport has the necessary flexibility to respond appropriately to specific issues as they arise, the proposed bylaws provide for the making of resolutions to set out the details of particular traffic and parking controls and for the setting of particular speed limits setting out frameworks under which resolutions are used for matters of detail is expressly allowed for under the Land Transport Act 1998. These bylaws provide for the retention of the control measures made pursuant to the legacy bylaws until these are amended or revoked by Auckland Transport following consultation with stakeholders.

Section 22AD(2) of the Land Transport Act 1998 requires Auckland Transport to give written notice of its intention to make the bylaws to specified persons and give a reasonable time to enable them to give written submissions on the proposal. In addition to complying with this legal obligation Auckland Transport is also choosing to comply with the requirements specified for bylaw-making using the special consultative procedure under the Local Government Act 2002 giving interested persons an opportunity to make submissions and be heard at a public hearing.

2. Reason for the proposal

The content of the legacy bylaws that regulate traffic, parking and the setting of speed limits have different requirements and provide different control measures to the roads controlled by Auckland Transport. Sections 61 and 63 of the Local Government (Auckland Transitional Provisions) Act 2010 state that bylaws that were valid on 31 October 2010 remain valid within their respective areas. This results in confusion for the users of roads and detracts

from Auckland Transport's ability to achieve its purpose. The purpose of Auckland Transport, as contained in the Local Government (Auckland Council) Act 2009, is-

to contribute to an effective and efficient land transport system to support Auckland's social, economic, environmental, and cultural well-being.

The power to make bylaws to regulate traffic and parking were contained in the Transport Act 1962 and the Local Government Act 1974 but with the repeal of the bylaw making functions in these Acts on 10 May 2011 by section 100(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011, these legacy bylaws are now deemed to have been made under section 22AB of the Land Transport Act 1998. The Land Transport Rule: Setting of Speed Limits 2003 is the national legislation that sets out the processes and requirements that must be complied with when setting speed limits.

The Local Government (Auckland Council) Act 2009, established Auckland Council and its council controlled organisations, section 45 of this Act states that Auckland Transport is to manage and control the Auckland transport system which makes it the road controlling authority for those roads. Additionally section 46 of the Act allows for Auckland Transport to exercise the functions and powers of a road controlling authority and a local authority under the Land Transport Act 1998 and any regulations or rules made under that Act for the Auckland transport system. Auckland Transport can also become the road controlling authority for roads outside of the Auckland transport system, if delegated those powers by the controller of that road. This can include the power to have its bylaws apply to those roads, unless such a delegation has been prohibited. Section 22AB enables Auckland Transport to make bylaws to regulate the traffic and to control parking on any road under the care, control or management of Auckland Transport. The Land Transport Rule: Setting of Speed Limits 2003, made pursuant to the Land Transport Act 1998 enables Auckland Transport to set speed limits on any road under the care, control or management of Auckland Transport.

The Land Transport Act 1998, its rules and regulations provide for an integrated system of extensive measures to regulate the conduct of users of the road. Road controlling authorities are bound by the detailed mandatory regulations and rules that are applicable on roads throughout New Zealand, for example the Land Transport (Offences and Penalties) Regulations 1999, Land Transport (Road User) Rule 2004, the Land Transport Rule: Setting of Speed Limits 2003 and the Land Transport Rule: Traffic Control Devices 2004. The Land Transport Act 1998 provides for, and the regulations and rules require road controlling authorities to make bylaws to give local effect to these regulations and rules. While alternative measures such as the layout of roading infrastructure, education and raising awareness contribute to the management of the Auckland transport system, these measures require a regulatory regime for enforcement.

Where the Land Transport Act 1998 provides for specific bylaw-making powers for a form of traffic control Auckland Transport is restrained from implementing such controls without a bylaw. As Auckland Transport, unlike local authorities in other parts of the country is not able to use district or unitary plan powers to implement controls the making of bylaws is the only method available to it.

3. Consideration of options

In order to follow best practice decision making principles, Auckland Transport has considered the options available to it to achieve its objective of putting in place a consistent and safe regime for traffic, parking and the setting of speed limits across the Auckland Region. The options considered available to Auckland Transport council are:

- Option 1 Do nothing – leave the legacy bylaws that control traffic, parking and set speed limits unchanged and:
- respond to issues arising on approved sites on a case by case basis using the current bylaw criteria; and
 - enforce the restriction of the bylaws where appropriate.

The use of the legacy bylaws ensures the continuance of the regulatory system as it currently applied by Auckland Transport. Some of the provisions in the legacy bylaw were made pursuant to the Local Government Act 1974, which are reviewable under the Local Government Act 2002 but with the passing of the Land Transport (Road Safety and Other Matters) Amendment Act 2011, these provisions are now deemed to have been made under the Land Transport Act 1998. Auckland Transport is required to review the bylaws by the Local Government (Auckland Transitional Provisions) Act 2010 but the Land Transport Act 1998 does not provide for a period within which transport related bylaws are to be reviewed and consequently the provisions in these bylaws are not subject to a specific review deadline. Retaining the legacy bylaws avoids the costs associated with drafting a bylaw and consulting with the stakeholders identified in section 22AD of the Land Transport Act 1998 and the Land Transport Rule: Setting of Speed Limits 2003, while maintaining a functional regulatory system.

This option does not enable Auckland Transport to provide an integrated system that controls traffic, parking or sets speed limits on roads under its care, control or management. Legacy bylaws define and control issues differently or not at all, for example only two legacy bylaws regulate engine braking by large vehicles while the remaining legacy bylaws do not provide control measures. Part 6 (Traffic Control) of the North Shore City Bylaw 2000 and Auckland City Council Traffic Bylaw 2006 include the setting of speed limits while the speed limits are set by separate legacy speed limits bylaws in the remaining legacy areas. Some legacy speed limits bylaws provide schedules of speed limits while this is omitted from the Auckland City Council Traffic Bylaw 2006. Some provisions of the legacy bylaws are outdated and may be more, or less, restrictive than the Land Transport (Offences and Penalties) Regulations 1999, Land Transport (Road User) Rule 2004 and the Land Transport Rule: Setting of Speed Limits 2003 and the Land Transport Rule: Traffic Control Devices 2004 due to on-going revision of these regulations. This option does not allow for the updating of the bylaw provisions to align with the latest measures contained in these regulations.

This option does not take into account new bylaw enabling provisions contained in the Land Transport Act 1998, like provisions to enhance or promote road safety or provide protection for the environment. This option does not enable Auckland Transport to give effect to its purpose or the intent of the legislation to integrate the management of the Auckland transport system and is not recommended.

Option 2 Revoke the legacy bylaws that regulate traffic, parking and set speed limits, as they apply to roads under the care, control or management of Auckland Transport and make region-wide bylaws to provide a uniform system to regulate traffic and parking and set speed limits for these roads.

The following issues have to be considered and addressed in the bylaw:

- The Local Government (Auckland Council) Act 2009 assigns responsibility for the making of bylaws on the Auckland transport system, enabled by the Land Transport Act 1998, to Auckland Transport. Except for bylaws authorised by the Local Government Act 2002, Auckland Council is precluded from making bylaws assigned to Auckland Transport. Auckland Transport is authorised to make bylaws to control traffic and parking and set speed limits on the Auckland transport system.

- In addition to the functions assigned to it by the Local Government (Auckland Council) Act 2009, Auckland Transport may as a road controlling authority also exercise any regulatory function relating to roads beyond the Auckland transport system that are under its care, control or management. The delegation of such functions by other road controlling authorities is allowed for under the Land Transport Act 1998 and the Government Roadway Powers Act 1989.
- The different legacy bylaws define and control traffic, parking and set speed limits in different ways. Differences in drafting and terminology in the legacy bylaws result in inconsistencies where the same issues are regulated, for example in relation to disability parking. Another example is the inclusion of detailed control measures in some legacy bylaw of the issues that are controlled by resolution in other legacy bylaws, for example the control of access to and the use of transport stations. The proposed bylaw provides an enabling framework that allows for the determination of control measures by resolution to provide flexibility and to enhance Auckland Transport to respond appropriately to issues as they arise without having to amend the bylaw.
- Speed limits are contained in schedules in Chapter 16 (Speed Limits) of the Manukau City Consolidated Bylaw 2008 and Part 6 (Traffic Control) of the North Shore City Council Bylaw 2000, Chapter 18 (Road Speed Limits) of the Rodney District Council General Bylaw 1998, Waitakere City Council Speed Limits Bylaw 2010, Franklin District Council Speed Limits Bylaw 2005, Papakura District Council Speed Limits Bylaw 2009 while Auckland City Council Traffic Bylaw 2006 does not contain schedules and speed limits are set by resolution. The requirements of the Land Transport Rule: Setting of Speed Limits 2003 are to be met when speed limits are set and it is necessary to integrate the current disparate schedules and resolutions regulating speed limits to ensure integrated management.
- Legacy bylaws were made before the Land Transport Act 1998 was amended by Land Transport (Road Safety and Other Matters) Amendment Act 2011. Although the repealed bylaw enabling provisions in the Transport Act 1962 and the Local Government Act 1974 were substantially remade under the Land Transport Act 1998, additional bylaw making functions are included that were not available to the legacy councils, for example the ability to make bylaws enhancing or promoting road safety or providing protection for the environment.
- As legacy bylaws were partly made under the now-repealed bylaw enabling provisions of the Local Government Act 1974 by local authorities, the legacy bylaws contain issues that are more appropriately regulated by other Auckland Transport bylaws and bylaws made by the Auckland Council.
- As bylaws enable the application of national legislation locally, it is prudent to ensure that the bylaw definitions, terminology and provisions are closely aligned with the Land Transport Act 1998 and regulations. Reliance is placed on measures in the national legislation and the bylaws should not duplicate nor provide alternative measures, unless appropriate. This will avoid confusion that may be caused by conflicting provisions.

To enable this option to be used, Auckland Transport will have to revoke the following legacy bylaws as they apply with to roads under the care, control or management of Auckland Transport:

- (a) Auckland City Council Traffic Bylaw 2006;
- (b) Franklin District Council Traffic Control Bylaw 2006;
- (c) Franklin District Council Speed Limits Bylaw 2005;
- (d) Chapter 13 (Parking and Traffic) of the Manukau City Consolidated Bylaw 2008;
- (e) Chapter 16 (Speed Limits) of the Manukau City Consolidated Bylaw 2008
- (f) Part 6 (Traffic Control) of the North Shore City Council Bylaw 2000;
- (g) Papakura District Council Parking and Traffic Bylaw 2009;

- (h) Papakura District Council Speed Limits Bylaw 2009.
- (i) Chapter 25 (Parking and Traffic Control) of the Rodney District Council General Bylaw 1998;
- (j) Chapter 18 (Road Speed Limits) of the Rodney District Council General Bylaw 1998
- (k) Waitakere City Council Use of Roads and Parking Bylaw 2010 (Waitakere City Council Traffic Bylaw 2010);
- (l) Waitakere City Council Speed Limits Bylaw 2010.

Consequently, Auckland Transport proposes that option 2 be preferred and that it will make a Traffic Bylaw 2012 and a Speed Limits Bylaw 2012 as stated in this statement of proposal to address the above issues.

4. Consultation requirements for the Land Transport Act 1998

Although section 22AD of the Land Transport 1998 provides that Auckland Transport is not compelled to use the special consultative procedure under the Local Government Act 2002 and may give notice of its intention to make bylaws to the persons specified in section 22AD, Auckland Transport is using an extended special consultative procedure to consult on the proposed bylaws. The extended special consultative procedure is used to ensure that the views of the specified persons and the public are obtained and that interested submitters are able to make verbal submissions at a public hearing. Written notice of the proposed bylaws will be given to persons specified in section 22AD which states-

A road controlling authority that is not a local authority may not make a bylaw under section 22AB unless it has consulted with—

- (a) the occupiers of any properties adjoining the road to which the proposed bylaw would apply; and*
- (b) any affected road controlling authorities that are responsible for roads that join, or are located near, the road to which the proposed bylaw would apply; and*
- (c) the territorial authority for the area where the road is located; and*
- (d) any affected local community; and*
- (e) the Commissioner of Police; and*
- (f) any other organisation or road user group that the road controlling authority considers affected; and*
- (g) the Agency (if the road controlling authority is not the Agency).*

In addition, Section 7(1)(2) of the Land Transport Rule: Setting of Speed Limits 2003 states-

The persons that must be consulted in accordance with 7.1(1) are:

- (a) road controlling authorities that are responsible for roads that join, or are near, the road on which the speed limit is to be set or changed; and*
- (b) a territorial authority that is affected by the existing or proposed speed limit; and*
- (c) any local community that the road controlling authority considers to be affected by the proposed speed limit; and*
- (d) the Commissioner; and*
- (e) the Chief Executive Officer of the New Zealand Automobile Association Incorporated; and*
- (f) the Chief Executive Officer of the Road Transport Forum New Zealand; and*
- (g) any other organisation or road user group that the road controlling authority considers to be affected by the proposed speed limit; and*
- (h) the Agency.*

To comply with these requirements Auckland Transport will write directly to the specific persons and organisations identified in the Land Transport Act and the Land Transport Rule: Setting of Speed Limits 2003 to give notice of the proposed Auckland Transport Traffic Bylaw 2012 and the proposed Auckland Transport Speed Limits Bylaw 2012, inviting them to make submissions. As it is impractical to write to each household adjoining every road in the region or to all members of a local community, Auckland Transport will comply with the requirement to consult with these stakeholders by publishing notices in the newspaper and on the Auckland Transport website. The notices in the newspapers and on the website will meet the requirements of the special consultative procedure pursuant to section 86 of the Local Government Act 2002, enabling interested persons to make written submissions during a one month submission period. Auckland Transport will hold a public hearing to enable submitters who wish to be heard to make verbal representations as part of the special consultative procedure.

After making the bylaws, Auckland Transport will submit copies to the Minister of Transport for consideration pursuant to the Land Transport Act 1998 and the Minister may amend, replace or disallow the bylaws if he finds it to be inconsistent with any act, unreasonable, or undesirable in relation to its impact on traffic.

5. Analysis of the proposed Auckland Transport Traffic Bylaw 2012

The proposed Auckland Traffic Bylaw 2011 contains the following provisions:

Clause 1: Title

This clause provides the title.

Clause 2: Commencement

The bylaw provides for the commencement of the bylaw.

Clause 3: Application

This clause explains that the bylaw applies only to any roads, any specified road, or any part of a specified road under the care, control or management of Auckland Transport. Roads and places in Auckland that are not on the Auckland transport system or that have not been delegated by another road controlling authority to Auckland Transport (for example roads in cemeteries and reserves) continue to be controlled by the legacy bylaws and other legacy measures.

Part 1: Preliminary provisions

Part 1 provides for the preliminary provisions contains clauses 4 to 6.

Clause 4: Purpose

This clause explains that the purpose of the bylaw is to set out the requirements for parking and control of vehicular or other traffic on any road under the care, control or management of Auckland Transport.

Clause 5: Interpretation

This clause provides definitions that are generally similar to those in the Land Transport Act 1998 and regulations and explains that undefined words used in the bylaw have the same meaning as in the Land Transport Act 1998. A broad definition of *class of vehicle*, that is within the ambit of the legislation, is included. This ensures that Auckland Transport has a wide range of options available when resolving how and to which category of vehicle or road user the bylaw provisions apply. The definition of *class of vehicle* includes *carpool* and *carshare* and are intended to enable Auckland Transport to promote the more efficient use of vehicles through parking options.

Clause 6: Resolutions

This clause enables Auckland Transport to make the bylaw provisions applicable by resolution generally or for specific cases, to all traffic or specific classes of traffic, all vehicles, specific classes of vehicles or specified vehicles, to all roads or specified roads and at all times or specified times.

Part 2: Vehicle and road use

Part 2 provides for measures to regulate the use of the road and contains clauses 7 to 17. Each clause provides that non-compliance with a control measures made pursuant to it is a breach of the bylaw. The Land Transport Rule: Traffic Control Devices 2004 enables Auckland Transport to give effect to control measures made under this part with traffic control devices (signs and markings).

Clause 7: One-way roads

This clause enables Auckland Transport to determine one-way roads by resolution.

Clause 8: Left or right turns and U-turns

This clause enables Auckland Transport to prohibit left or right turns or the making of U-turns on specified roads by resolution.

Clause 9: Routes and manoeuvres on roads

This clause enables Auckland Transport to regulate the movements and flow of traffic on roads and cycle paths by regulating routes that may be taken or manoeuvres that may be made to ensure safety of road users by resolution. It is intended to enable Auckland Transport to prevent unsafe turning movements across road intersections and into or out of access ways and entrances to premises next to roads.

Clause 10: Special vehicle lanes

This clause enables Auckland Transport to restrict turning movements in lanes. This clause controls to be made for mandatory left or right turns from lanes on multi-lane roads. It also enables Auckland Transport to restrict the use of lanes to specified vehicles by resolution. As provided for in the Land Transport (Road User) Rule 2004, special vehicle lanes include bus lanes, transit lanes, cycle lanes, and light rail vehicle lanes. Transit lane is defined in the bylaw and, unless excluded by signs) includes lanes reserved for the use of passenger service vehicles, vehicles carrying not less than a specified number of occupants (for example T2 and T3 lanes), cycles, motorcycles and mopeds. The list is not exhaustive and Auckland Transport may provide for other classes of vehicles to make use of special vehicle lanes.

Clause 11: Traffic control by size, nature or goods (including heavy vehicles)

This clause enables Auckland Transport to control access by vehicles to specified roads where the size or nature of the vehicle or the nature of the loads make access unsuitable. This supersedes the restrictions in legacy bylaws relating to the use of roads by heavy vehicles, oversized vehicles, four-wheel drive vehicles and all terrain vehicles. Specific restrictions contained in the Waitakere City Council Use of Roads and Parking Bylaw 2010 (Waitakere City Council Traffic Bylaw 2010) for Scenic Drive and in the Auckland City Council Traffic Bylaw 2006 for over-dimension vehicles on Great Barrier Island are to be retained by resolution when the bylaw is made. The ambit of the clause is broader than the similar legacy bylaw clauses as it is not restricted to heavy vehicles. Provision is made for exemptions to be granted by Auckland Transport where alternative access is not available to load or unload goods or passengers, provide emergency services, and to undertake maintenance of the roads or network utility providers' assets. As the reason for any restriction on a road relates to its suitability to accommodate the size or nature of the vehicle or the nature of the loads, exemptions are more limited than in similar clauses in legacy bylaws. Exemptions are not generally applicable and require specific approval by Auckland Transport and this function may be delegated to officers for operational purposes.

Clause 12: Cycle paths

This clause enables Auckland Transport to determine by resolution cycle paths that are not on the roadway and to determine the priority of use where cycle paths are shared by cyclists, pedestrians and riders of mobility devices and wheeled recreational devices (for example skate boards).

Clause 13: Shared zones

Auckland Transport may by resolution specify roads that are shared zones. Unless Auckland Council determines otherwise, no parking is allowed in a shared zone. The development of shared zones includes non-regulatory measures such as design and layout of the roads and regulatory measures approved by Auckland Transport imposing appropriate control measures made pursuant to the provisions of this bylaw. Imposing shared zones on roads has the advantage of decreasing the signage required and ensuring priority of use of the area for pedestrians.

Clause 14: Cruising

This clause enables Auckland Transport to restrict cruising on roads specified by resolution. Auckland Transport may also determine that any vehicle passing a fixed point more than once within a prescribed period will be regarded as cruising. As the ability to provide for this restriction by bylaw has recently been included in the Land Transport Act 1998, none of the legacy bylaws contains a similar provision. This clause may be used in conjunction with clause 14 to address anti-social behaviour emanating from the use of vehicles.

Clause 15: Vehicles under 3500 kg

This provision enables the restriction by resolution, of access to specified roads by vehicles below 3500 kilogrammes at night (between 9pm and 4am). It is intended to prevent access to locations known to be frequented for the purpose of unauthorised street and drag racing. Exemptions are provided for taxis, for vehicles of residents and visitors to properties with frontage to the affected roads and for persons who have obtained prior permission of Auckland Transport. Existing restrictions made pursuant to legacy bylaws will be retained.

Clause 16: Engine braking

This clause enables Auckland Transport to specify by resolution roads with a speed limit up to 70km/h where engine braking is prohibited. This measure is intended to minimise the nuisance caused by the noise emanating from engine brakes in residential areas. Provisions in legacy bylaws were made to control nuisance pursuant to the Local Government Act 2002 and enforcement presented a challenge due to the absence of infringement fees under that Act. The Land Transport (Road Safety and Other Matters) Amendment Act 2011 enables road controlling authorities to include engine braking restrictions in bylaws made pursuant to the Land Transport Act 1998 and suitable infringement fees are available.

Clause 17: Unformed roads

This clause enables Auckland Transport to restrict the use of motor vehicles on unformed roads for the purposes of protecting the environment, the road and adjoining land and the safety of road users. As the ability to provide for this restriction by bylaw has recently been included in the Land Transport Act 1998, none of the legacy bylaws contains a similar provision.

Part 3: Parking

Part 3 provides for measures to regulate parking of vehicles and contains clauses 18 to 26. Each clause provides that non-compliance with a control measures made pursuant to it is a breach of the bylaw. The Land Transport Rule: Traffic Control Devices 2004 enables

Auckland Transport to give effect to control measures made under this part with traffic control devices (signs and markings).

Clause 18: Stopping, standing and parking

This is a broad enabling clause that allows Auckland Transport to prohibit, or restrict stopping, standing or parking of any category of vehicles on roads by resolution. This enables the location of loading zones, clear ways, bus and tram stops, no stopping, standing and parking restrictions and similar measures.

Clause 19: Parking places, parking buildings, transport stations and zone parking

This clause enables Auckland Transport to provide by resolution for any land, road, zone or building under its control to be declared by resolution to be a parking place or transport station. Transport stations include taxi stands and places where busses may stand. The clause has a wide ambit and enables comprehensive measures to regulate transport stations and parking places. It enables Auckland Transport to make restrictions applicable to specified vehicles and prescribe the times and conditions for parking and the fees payable for the use of transport stations and parking places. Auckland Transport may impose conditions for the use of parking places and transport stations that include the marking of spaces, angle parking, payment for the use of the parking stations and transport stations and restrictions on the classes of vehicles that may or may not access or use the parking places or transport stations. The clause does not prescribe particular methods of payment but enables Auckland Transport to determine payment methods to ensure that the bylaw is adaptable to technological developments. The clause also enables the use of parking zones and provides that the general restrictions applicable to parking zones do not apply to areas where specific restrictions apply. For example, general time provisions will not apply in loading zones, or to any parts of the road from which stopping is prohibited, or to parking places reserved for particular purposes or parking places with differently specified parking times and conditions.

Clause 20: Disabled persons

This clause provides that Auckland Transport may by resolution determine the location of disabled parking places for holders of current disabled person's parking permits that are clearly legible. It is not envisaged that Auckland Transport will approve disabled person's parking permits but that it may approve the form thereof to enable more appropriate organisations to manage a system of permits. No person may park in a disabled parking place without displaying a current disabled person's parking permit and no person may display a disabled parking person's parking permit without conveying a disabled person. This restriction is intended to prevent the misuse of the disabled person's parking permit system.

Clause 21: Residents' parking

This clause provides for *residents only* parking and *residents exemption* parking, for the use by persons residing in the vicinity. The clause provides for the setting of fees payable to obtain permits allowing for *residents only* and *residents exemption* parking, for the display of permits and for a prohibition on the use of *residents only* and *residents exemption* parking by persons who are not the holders of permits. Restrictions set under legacy bylaws will be retained.

Clause 22: Parking vehicles off a roadway

This clause restricts the parking of vehicles off the roadway on cultivated areas in urban traffic areas. Parking may be allowed on cultivated areas where it is designed and constructed to accommodate a parked vehicle or with written permission of Auckland Transport. The restriction is stricter than that contained in Section 6.2 of the Land Transport (Road User) Rule 2004 that restricts parking on cultivated areas only if the cultivated area is

likely to be damaged but less strict than the requirements of some of the legacy bylaws that prohibited parking on cultivated areas in rural and urban areas.

Clause 23: Parking for display or sale

This clause restricts the parking of vehicles on roads from advertising goods and services or the sale of the vehicle unless the vehicle is being used for day-to-day travel. The purpose of this clause is to ensure that parking places remain available for road users and to protect the environment with reference to amenity values. It will make it possible to prevent ad hoc car fairs from appearing whereby a number of private sellers all park their vehicles with *for sale* signs in the same road when they actually have no other reason to be parked there. It will also prevent professional car sellers from displaying their vehicles on the road. It is not intended to restrict the parking of sign-written trade vehicles or the parking of private vehicles that display *for sale* signs while being used for daily travelling. It is noted that this provision might be seen as raising an issue in relation to the freedom of expression set out in the New Zealand Bill of Rights Act 1990. However it is felt that as the provision is only aimed at preventing the creation of ad hoc clusters of cars for sale rather than prohibition the practice of placing a notice in a vehicle which is being used in an ordinary fashion any limitation on the freedom of expression is justified in a democratic society. Ad hoc car fairs and other groupings of vehicles for sale on the street can cause traffic flow issues as passing drivers slow to inspect the vehicles on offer. Additionally if such clusters of vehicles for sale are in an unsuitable location there can be increased risk to pedestrian safety as prospective buyers see to look at the vehicle from all sides.

Clause 24: Machinery or equipment on roads

This clause prohibits the use of the road as storage space for machinery, equipment, materials or freight containers without the permission of Auckland Transport. Auckland Council's kerbside waste collection services are excluded, although containers may not be left on any road for a period exceeding 24 hours.

Clause 25: Repairs on vehicles

This clause prohibits the repair or modification of vehicles on roads unless they are of a minor nature and do not interfere with the flow of traffic or are to enable the vehicle to be moved. The purpose of this clause is to ensure that parking places remain available for road users and to protect the environment with reference to amenity values.

Clause 26: Broken down vehicles

This clause prohibits persons leaving vehicles on roads for more than seven days if the vehicles cannot be safely moved. The purpose is to prevent the roads from being used for the storage of broken down vehicles.

Part 4: Enforcement powers

Part 4 provides for enforcement powers and contains clauses 27 and 28.

Clause 27: Removal of vehicles by towing

This clause enables Auckland Transport to remove vehicles and other items from roads, transport stations and parking places where these are used in breach of the bylaw provisions. It allows for the cost of removal to be recovered from the offender. This power is in addition to that contained in the Land Transport Act 1998 and regulations.

Clause 28: Removal of construction

This clause enables Auckland Transport to make use of the powers provided for in section 163 of the Local Government Act 2002 to remove work constructed on roads and to recover the costs.

Part 5: Offences and penalties

Part 5 provides for offences and penalties and contains clause 29

Clause 29: Bylaw breaches

This clause provides that any person who breaches the bylaw provisions or any control measure made pursuant to the bylaw commits an offence under the Land Transport Act 1998 and the Regulations and is liable to the penalties under that Act and Regulations.

Part 6: Exceptions, revocation and savings

Part 6 provides for exceptions, revocations and savings and contains clauses 30 to 32.

Clause 30: Exceptions

This clause provides for exceptions to the bylaw. The clause is based on a similar clause providing exceptions to the Land Transport (Road User) Rule 2004 and provides for exceptions for acts done to avoid injury, death or property damage where the offender is not responsible for creating the circumstances leading to the breach being committed. Parts 2 and 3 of the Bylaw do not apply to vehicles engaged in urgent repair work to a public utility service, emergency vehicles and vehicles being used to transport medical personnel attending to an emergency. Persons acting on the instructions of enforcement officers, parking wardens and traffic control devices are excepted from the bylaw provision, as are enforcement officers and parking wardens where their actions are necessary in the execution of their duty.

Clause 31: Revocations

This clause revokes the legacy bylaws to the extent that they relate to roads under the care, control or management of Auckland Transport. The legacy bylaws remain valid where the Auckland Transport Traffic Bylaw 2012 does not apply.

Clause 32: Savings

This clause provides that any resolutions, approvals or permits made under the legacy bylaws remain in effect until revoked by Auckland Transport.

6. Analysis of the proposed Auckland Transport Speed Limits Bylaw 2012

The proposed Auckland Speed Limits Bylaw 2012 contains the following provisions:

Clause 1: Title

This clause provides the title.

Clause 2: Commencement

The bylaw provides for the commencement of the bylaw.

Clause 3: Application

This clause explains that the bylaw applies only to roads that are under the care, control, or management of Auckland Transport.

Clause 4: Purpose

This clause explains that the purpose of the bylaw is to allow Auckland Transport to set speed limits in accordance with the Land Transport Rule: Setting of Speed Limits 2003 for roads that are under the care, control or management of Auckland Transport. Speed limits on roads that are not under the care, control or management of Auckland Transport will continue to be set under the legacy bylaws until Auckland Council provides alternative ways of setting the speed limits.

Clause 5: Interpretation

This clause provides definitions that are generally similar to those in the Land Transport Act 1998 and regulations and explains that undefined words used in the bylaw have the same meaning as in the Land Transport Act 1998 and the Land Transport Rule: Setting of Speed Limits 2003.

Clause 6: Setting of speed limits

This clause enables Auckland Transport to set speed limits for any road under the care, control or management of Auckland Transport, set speed limits for any road in designated locations and designate urban traffic areas by resolution. This enables Auckland Transport to provide for the setting of permanent, holiday, variable or minimum speed limits by resolution. Temporary speed limits can be set by delegation under the Land Transport Rule: Setting of Speed Limits 2003. As the Land Transport Rule: Setting of Speed Limits 2003 provides that roads that are not designated as urban traffic areas are rural traffic areas, provision is not made in the bylaw for the designation of rural traffic areas. Restrictions on speed in rural traffic areas will be made by setting of permanent, holiday, variable or minimum speed limits by resolution.

Clause 7: Revocation

This clause revokes the legacy bylaws that set speed limits for any road under the care, control or management of Auckland Transport. The legacy bylaws remain valid where the Auckland Transport Traffic Bylaw 2012 does not apply. The speed limits made under the legacy bylaws set out in the schedule to this bylaw remain in effect until changed by resolution.

7. Approval of control measures

As noted above the proposed Traffic Bylaw 2012 does not contain a list or schedule of control measures. Such measures to be specified by way of a resolution made under the bylaw. This approach of bylaws allowing for matters of detail to be determined by resolution is common and expressly allowed for in section 22AB(3) of the Land Transport Act 1998. The resolutions made by legacy councils to provide controls continue in force after the bylaws are revoked.

The requirements for setting speed limits prescribed by the Land Transport Rule: Setting of Speed Limits 2003 enables Auckland Transport to set speed limits and designate urban traffic areas by making a bylaw and the bylaw making powers of the Land Transport Act 1998 allows for matters of detail under a bylaw to be set by resolution. As noted above, before speed limits are set, Auckland Transport has to notify the persons specified in the rule and has to consider the safe and appropriate speed limit with regard to the function, nature and use of the road, its environment, land use patterns and whether the road is in an urban traffic area or a rural area.

The Bylaw contains a schedule of all the legacy speed limit restrictions contained in schedules to the legacy bylaws, or made by resolution in the case of the Auckland City Council Traffic Bylaw 2006.

The schedule does not amend or create any speed limits, it merely sets out the current speed limits in a single consistent style as the legacy councils used different styles for the recording of speed limits and urban traffic areas.

Owing to the size of this schedule the full version of it is not included in this bylaw but have merely indicated how it will be set out (the full schedule will amount to approximately 11,500 records). A copy of the full schedule which is the current register of speed limits in Auckland is available on-line.

The schedule will not be updated. A separate version of the speed limits in the schedule will be maintained as the speed limits register. This version will be updated as speed limits are changed.

Retaining the control measures made by resolution or contained in schedules under the legacy bylaws until amended or revoked by Auckland Transport ensures the minimum disruption to the existing system of control measures without having to assess all the existing control measures during the review of the legacy bylaws. This approach optimises the opportunity to focus on each control measure, with appropriate consultation with the stakeholders identified in section 22AD of the Land Transport Act 1998 or in the Land Transport Rule: Setting of Speed Limits 2003 when issues arise.

Auckland Transport's Traffic Control Committee has been delegated to make resolutions that provide for the specific control measures that apply to roads. The current system will also be used for the Traffic Bylaw 2012 and Speed Limits Bylaw 2012. The process includes consultation with stakeholders, including local boards. The process provides that local boards will be advised of proposals for control measures applicable to roads in their areas and can respond to proposals before the measures are approved.

8. Conclusion

It is proposed that Auckland Transport make separate bylaws relating to traffic and parking controls and the setting of speed limits for roads under the care, control or management of Auckland Transport and to specify consistent criteria for the entire Auckland region in relation to control measures that are to be made by resolution. The control measures will not be part of the bylaws to ensure that these may be changed by resolution of the Auckland Transport without requiring the amendment of the bylaws.

The provisions in the legacy bylaws that control traffic, parking and set speed limits in Auckland will be revoked only to the extent that they relate to roads under the care, control or management of Auckland Transport. Roads that are not under the care, control or management of Auckland Transport (roads on reserves, cemeteries and beaches) will continue to be governed by the legacy bylaws.



Traffic Bylaw 2012

(Draft as at 7 December 2011)

Auckland Transport

[Insert meeting reference]

Explanatory Note

This bylaw made pursuant section 22AB of the Land Transport Act 1998, allows for Auckland Transport as the road controlling authority to make the following bylaw about traffic and parking on roads under the care, control, or management of Auckland Transport. This bylaw revokes and replaces transport-related bylaws made by the previous local authorities.

This explanatory note is for information purposes only and does not form part of this bylaw.

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1 Title

This bylaw is the Auckland Transport Traffic Bylaw 2012

2 Commencement

This bylaw comes into force on [Insert commencement date (dd month yyyy)].

3 Application

This bylaw applies to any roads, any specified road, or any part of a specified road under the care, control, or management of Auckland Transport.

**Part 1
Preliminary provisions**

4 Purpose

The purpose of this bylaw is to set the requirements for parking and control of vehicular or other traffic on any road under the care, control or management of Auckland Transport.

5 Interpretation

(1) In this bylaw, unless the context otherwise requires, -

Act means the Land Transport Act 1998 and the regulations under that Act.

approved disabled person's parking permit means a disabled person's parking permit or mobility parking permit—

- (a) issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated; or
- (b) approved by Auckland Transport.

bus lane means a lane reserved by a marking or sign installed at the start of the lane and at each point at which the lane resumes after an intersection for the use of—

- (a) buses; and
- (b) cycles, mopeds, and motorcycles (unless one or more are specifically excluded by the sign).

carpool means a shared use of a vehicle by a driver and one or more passengers, usually for commuting to a similar or nearby destination including place of employment, business or educational facility.

class of vehicle means groupings of vehicles defined by reference to any common feature and includes-

- (a) vehicles by type, description, weight, size or dimension;
- (b) vehicles carrying specified classes of load by the mass, size or nature of such loads;
- (c) vehicles carrying no fewer or less than a specified number of occupants;
- (d) vehicles used for specified purposes;
- (e) vehicles driven by specified classes of persons;
- (f) carpool and shared vehicle; and
- (g) vehicles displaying a permit authorised by Auckland Transport.

cruising means driving repeatedly in the same direction over the same section of road in a motor vehicle in a manner that-

- (a) draws attention to the power or sound of the engine of the motor vehicle being driven; or
- (b) creates a convoy that-
 - (i) is formed otherwise than in trade; and
 - (ii) impedes traffic flow.

cycle lane means a longitudinal strip within a roadway reserved by a marking or sign for the use of cycles.

cycle path —

- (a) means part of the road that is physically separated from the roadway that is intended for the use of cyclists, but which may be used also by pedestrians; and
- (b) includes a cycle track formed under section 332 of the Local Government Act 1974.

diverted material means anything that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded.

emergency vehicle means a vehicle used for attendance at emergencies and operated—

- (a) by an enforcement officer;
- (b) by an ambulance service;
- (c) as a fire service vehicle;
- (d) as a civil defence emergency vehicle;
- (e) as a defence force emergency vehicle.

light rail vehicle lane means a lane reserved for the use of light rail vehicles by a marking or sign installed at the start of the lane (unless the light rail vehicle lane is a continuous loop) and at each point at which the lane resumes after an intersection.

motor vehicle-

- (a) means a vehicle drawn or propelled by mechanical power; and
- (b) includes a trailer; but
- (c) does not include -
 - (i) a vehicle running on rails; or
 - (ii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or
 - (iii) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or
 - (iv) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or
 - (v) a pedestrian-controlled machine; or
 - (vi) a vehicle that the Agency has declared under section 168A of the Act is not a motor vehicle; or
 - (vii) a mobility device.

parking machine means a parking meter or other device that is used to collect payment in exchange for parking a vehicle in a particular place for a limited time.

parking place means a place (including a building) where vehicles, or any class of vehicles, may stop, stand, park.

shared vehicle means a vehicle operated by an organisation approved by Auckland Transport to provide its members, for a fee, access to a fleet of shared vehicles which they may reserve for use on an hourly basis.

special vehicle lane means a lane defined by signs or markings as restricted to a specified class or classes of vehicle; and includes a bus lane, a transit lane, a cycle lane, and a light rail vehicle lane.

traffic means road users of any type and includes pedestrians, vehicles and driven or ridden animals.

transit lane means a lane reserved for the use of the following (unless specifically excluded by a sign installed at the start of the lane):

- (a) passenger service vehicles;
- (b) motor vehicles carrying not less than the number of persons (including the driver) specified on the sign;
- (c) cycles;
- (d) motorcycles;
- (e) mopeds.

transport station means a place where transport-service vehicles, or any class of transport-service vehicles, may wait between trips and includes all necessary approaches and means of entrance to and egress from any such place, and all such buildings, ticket offices, waiting rooms, cloak rooms, structures, appliances, and other facilities as Auckland Transport considers to be necessary or desirable for the efficient use of that place for the purpose for which it is provided and the collection of charges in relation to that use.

urban traffic area means an area designated pursuant to the Land Transport Rule: Setting of Speed Limits 2003 that consists of one or more specified roads or a specified geographical area, to which the urban speed limit generally applies.

vehicle—

- (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
 - (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but
 - (c) does not include—
 - (i) a perambulator or pushchair;
 - (ii) a shopping or sporting trundler not propelled by mechanical power;
 - (iii) a wheelbarrow or hand-trolley;
 - (iv) a pedestrian-controlled lawnmower;
 - (v) a pedestrian-controlled agricultural machine not propelled by mechanical power;
 - (vi) an article of furniture;
 - (vii) a wheelchair not propelled by mechanical power;
 - (viii) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;
 - (ix) any rail vehicle.
- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Land Transport Act 1998 unless the context plainly requires a different meaning.
- (3) The Interpretation Act 1999 applies to the interpretation of this bylaw.
- (4) Explanatory notes are for information purposes only, do not form part of this bylaw, and may be inserted or changed by Auckland Transport at any time.

6 Resolutions made under this Bylaw

A resolution may be made under this bylaw:

- (a) to regulate, control or prohibit any matter or thing generally, or for any specific classes of case, or in a particular case; or
- (b) that applies to all vehicles or traffic or to any specified class of vehicles or traffic using a road; or
- (c) that applies to any road or part of a road under the care, control, or management of Auckland Transport; and
- (d) that applies at any specified time or period of time.

Part 2 Vehicle and road use

7 One-way Roads

- (1) Auckland Transport may by resolution require vehicles on roads to travel in one specified direction only.
- (2) Every driver of a vehicle must travel only in the direction specified on a one-way road.

8 Left or right turns and U-turns

- (1) Auckland Transport may by resolution prohibit:
 - (a) vehicles or classes of vehicles on any road from turning to the right or to the left or from proceeding in any other direction;
 - (b) vehicles turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a u-turn) on specified roads.
- (2) No person shall turn a vehicle to the left, or to the right, or perform a U-turn, or proceed in any other direction on any road where Auckland Transport has prohibited or restricted such movements.

9 Routes and manoeuvres on roads

- (1) Auckland Transport may by resolution prescribe for traffic or specified classes of traffic routes that must be followed or manoeuvres that must be undertaken at an intersection, or on a road or cycle path.
- (2) No person may use a road or cycle path in a manner contrary to a prohibition or restriction made made by Auckland Transport.

10 Special Vehicle Lanes

- (1) Auckland Transport may by resolution prescribe a road, or a part of a road, as a special vehicle lane that may only be used by a specified class or classes of vehicle.
- (2) No person may use a special vehicle lane contrary to any restriction made by Auckland Transport.

11 Traffic control by size, nature or goods (including heavy vehicles)

- (1) Auckland Transport may by resolution prohibit or restrict the use of roads as unsuitable for the use of any specified class of traffic or any specified class of motor vehicle due to their size or nature or the nature of the goods carried.
- (2) No person may use a road contrary to a prohibition or restriction made made by Auckland Transport.

- (3) If in the opinion of Auckland Transport it is safe to do so, Auckland Transport may permit a vehicle to use any road in contravention of a prohibition or restriction made under this clause for the purpose of:
- (a) loading or unloading goods or passengers at any property whose access is by way of the road; or
 - (b) providing an emergency service in or near a road from which it has been prohibited and for which alternative access is not available; or
 - (c) undertaking maintenance on a road from which it has been prohibited and for which alternative access is not available; or
 - (d) undertaking maintenance of a network utility provider's assets on or near a road from which it has been prohibited and for which alternative access is not available.

12 Cycle Path

- (1) Auckland Transport may by resolution:
- (a) fix the length, route and location of a cycle path;
 - (b) determine priority for users of a cycle path on a shared path that may be used by some or all of the following persons at the same time:
 - (i) pedestrians;
 - (ii) cyclists;
 - (iii) riders of mobility devices;
 - (iv) riders of wheeled recreational devices.
- (2) No person may use a cycle path in a manner contrary to any restriction made by Auckland Transport.

13 Shared Zones

- (1) Auckland Transport may by resolution specify any road to be a shared zone.
- (2) Except where Auckland Transport has by resolution specified otherwise, no person may stand or park a vehicle in a shared zone.
- (3) No person may use a shared zone in a manner contrary to any restriction made by Auckland Transport.

14 Cruising

- (1) Auckland Transport may by resolution:
- (a) specify any section of road or roads on which cruising is controlled, restricted, or prohibited;
 - (b) prescribe the period of time that must elapse between each time a driver drives on a specified section of road for the driver to avoid being regarded as cruising.
- (2) No person shall use a motor vehicle on any specified section of road or roads in contravention of a control, prohibition or restriction made by Auckland Transport.

15 Vehicles under 3,500kg

- (1) Auckland Transport may by resolution restrict or prohibit any vehicle having a gross vehicle mass less than 3,500kg from being operated on any road between the hours of 9pm and 4am.
- (2) No person may drive or permit a vehicle to be driven in contravention of a resolution made by Auckland Transport unless:
 - (a) that vehicle is used for the express purpose of visiting a property with a frontage to a road specified in the resolution; or
 - (b) that vehicle is being used for the time being as a passenger service vehicle; or
 - (c) prior written permission from Auckland Transport has been obtained.

16 Engine braking

- (1) Auckland Transport may by resolution prohibit or restrict engine braking on any road where the permanent speed limit does not exceed 70km/h.
- (2) No person may use engine braking on any road in contravention of a prohibition or restriction made made by Auckland Transport.

17 Unformed legal roads

- (1) Auckland Transport may by resolution restrict the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users.
- (2) No person may use a motor vehicle on an unformed road contrary to a restriction made made by Auckland Transport.

**Part 3
Parking**

18 Stopping, Standing and Parking

- (1) Auckland Transport may by resolution:
 - (a) prohibit or restrict the stopping, standing or parking of vehicles on any roads; or
 - (b) limit the stopping, standing or parking of vehicles on any road and vehicles of any specified class or description.
- (2) No person shall stop, stand or park a vehicle on any road in contravention of a prohibition, restriction or limitation made made by Auckland Transport.

19 Parking Places, Parking Buildings, Transport Stations and Zone Parking

- (1) Auckland Transport may by resolution:
 - (a) reserve any area of land or any road or any part of a road or any zone or any building or any part of a building owned or under the care, management or control of Auckland Transport to be a parking place or a transport station;
 - (b) specify the vehicles or classes of vehicle that may or may not use a parking place or transport station;

- (c) prescribe the times, manner and conditions for the parking of vehicles or classes of vehicles in a parking place or transport station;
 - (d) prescribe –
 - (i) the charges to be paid for the use of a parking place or transport station; and
 - (ii) the manner by which parking charges may be paid by the use of parking machines or in any other specified manner;
 - (e) make provision for the efficient management and control of a parking place or transport station.
- (2) Any restrictions that apply to a zone, do not apply in locations within that zone parking area where other specific stopping, standing or parking restrictions apply.
- (3) No person shall park a vehicle in a parking place or transport station in contravention of prohibition or restriction made made by Auckland Transport.

20 Disabled Persons

- (1) Auckland Transport may by resolution reserve any parking space on a road for the exclusive use of a disabled person who has on display in the vehicle a current approved disabled person's parking permit that is clearly legible.
- (2) Auckland Transport may approve the form of a disabled person's parking permit.
- (3) No person shall use a vehicle which is not displaying a current approved disabled person's parking permit in a parking space reserved for the exclusive use of disabled persons.
- (4) No person shall use a vehicle which is displaying an approved disabled person's parking permit unless the vehicle is being used to convey a disabled person or to pick up and drop off a disabled person.

21 Residents' Parking

- (1) Auckland Transport may by resolution reserve any specified parking place as:
- (a) a residents' only parking area for the exclusive use of a person who resides in the vicinity.
 - (b) a residents' exemption parking area for the use of a person who resides in the vicinity.
- (2) Auckland Transport may by resolution prescribe:
- (a) the fees to be paid annually or in any other specified manner, for the use by persons residing in the vicinity of a parking place; and
 - (b) the manner by which fees may be paid for the use of a parking place by persons residing in the vicinity.
- (3) Any person who parks a vehicle in a parking place reserved for the exclusive use of a person who resides in the vicinity must pay the prescribed fee and display a current approved resident's parking permit so that it is clearly legible.
- (4) No person shall park a vehicle which is not displaying a current approved resident's parking permit in a resident's parking place in contravention of a prohibition or restriction made made by Auckland Transport.

22 Parking vehicles off a roadway

- (1) No person may stop, stand or park a vehicle in urban traffic areas on that part of the road which is laid out as a cultivated area, including a grass plot, a flower bed or shrubbery.
- (2) A person may stop, stand or park a vehicle in contravention of this clause if:
 - (a) that part of the road is designed and constructed to accommodate a parked vehicle; or
 - (b) Auckland Transport has given written permission to stop, stand or park a vehicle in that part of the road.

23 Parking for display or sale

No person may stop, stand or park a vehicle on any road or parking place for the purpose of advertising a good or service, or for offering the vehicle for sale unless the vehicle is being used for day to day travel.

24 Machinery or equipment on roads

No person may leave any machinery, equipment, materials or freight containers on any road unless that person has the written permission of Auckland Transport. This clause does not apply to containers that are used solely for the purpose of kerbside collection of waste or diverted material authorised by Auckland Council and placed off the roadway, provided that such containers are not left on any road for a period not exceeding 24 hours.

25 Repairs on vehicles

No person may carry out repairs or modifications to a vehicle on a road unless those repairs or modifications are of a minor nature and do not impede the flow of traffic or are necessary to enable the vehicle to be moved.

26 Broken down vehicles

No person may leave a vehicle on any road for a continuous period exceeding seven days if that vehicle does not have effective motive power or is in such a state that it cannot be safely driven.

**Part 4
Enforcement powers**

27 Removal of vehicles by towing

- (1) In addition to the powers conferred on it by any other enactment, Auckland Transport may remove or cause to be removed any vehicle or thing from any parking place, transport station or road using those places or stations in breach of the bylaw.
- (2) Auckland Transport may recover from the person who committed the breach of this bylaw the costs incurred by Auckland Transport in connection with the removal of the vehicle or thing.

28 Removal of construction

Auckland Transport may remove or alter a work or thing that has been constructed in breach of this bylaw and may recover any costs of removal or alteration from the person who committed the breach.

**Part 5
Offences and penalties**

29 Bylaw breaches

A person who fails to comply with any control, restriction, limitation or prohibition made pursuant to this bylaw commits an offence under the Act and the Regulations and is liable to the penalties set out in the Act and the Regulations.

**Part 6
Exceptions, revocation and savings provisions**

30 Exceptions

- (1) A person is not in breach of this bylaw if that person proves that:
 - (a) the act or omission complained of took place in response to a situation on a road; and
 - (b) the situation was not of the person's own making; and
 - (c) the act or omission was taken:
 - (i) to avoid the death or injury of a person; or
 - (ii) if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.
- (2) Clause 30(1) does not apply if a court is considering, in proceedings for an offence specified in the Act, whether or not a person had complied with this bylaw.
- (3) Any restrictions made under Parts 2 and 3 of this bylaw do not apply to:
 - (a) a vehicle that is actually engaged in urgent repair work to a public utility service;
 - (b) a vehicle that is being used as an emergency vehicle in attendance at an emergency situation; or
 - (c) a vehicle that is being used to transport registered medical personnel to assist at an emergency situation.
- (4) A person is not in breach of this bylaw if that person proves that the act or omission:
 - (a) took place in compliance with the directions of an enforcement officer or a parking warden; or
 - (b) in the case of an act or omission done by an enforcement officer or a parking warden, was necessary in the execution of the person's duty.

31 Revocation

The following transport-related bylaws are revoked to the extent that they apply to any roads under the care, control or management of Auckland Transport:

- (a) Auckland City Council Traffic Bylaw 2006;
- (b) Franklin District Council Traffic Control Bylaw 2006;
- (c) Chapter 13 (Parking and Traffic) of the Manukau City Consolidated Bylaw 2008;

- (d) Part 6 (Traffic Control) of the North Shore City Council Bylaw 2000;
- (e) Papakura District Council Parking and Traffic Bylaw 2009;
- (f) Chapter 25 (Parking and Traffic Control) of the Rodney District Council General Bylaw 1998;
- (g) Waitakere City Council Use of Roads and Parking Bylaw 2010 (Waitakere City Council Traffic Bylaw 2010);

32 Savings

Any resolutions, approvals, permits or other acts of authority made pursuant to the bylaws referred to in clause 31 remain in force in the area to which it applied on the date of revocation until revoked by Auckland Transport.



Speed Limits Bylaw 2012

DRAFT

(as at 6 December 2011)

Auckland Transport

[insert meeting reference]

Explanatory Note

This bylaw made pursuant to the Land Transport Rule: Setting of Speed Limits 2003 made under the Land Transport Act 1998, allows for Auckland Transport as the road controlling authority to set speed limits on roads under the care, control or management of Auckland Transport. This bylaw revokes and replaces the bylaws setting speed limits made by the previous local authorities.

This explanatory note is for information purposes only and does not form part of this bylaw.

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1 Title

This bylaw is the Auckland Transport Speed Limits Bylaw 2012.

2 Commencement

This bylaw comes into force on [Insert commencement date (dd month yyyy)].

3 Application

This bylaw applies to all roads, any specified road, or any part of a specified road under the care, control or management of Auckland Transport.

4 Purpose

The purpose of this bylaw is to allow Auckland Transport to set speed limits in accordance with the Land Transport Rule: Setting of Speed Limits 2003 on all roads under the care, control or management of Auckland Transport.

5 Interpretation

(1) In this bylaw, unless the context otherwise requires, -

Designated location means a designated location under the care, control or management of Auckland Transport.

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

(2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Local Government (Auckland Council) Act 2009, Land Transport Act 1998, and the Rule.

(3) The Interpretation Act 1999 applies to this bylaw.

6 Speed Limits

(1) Auckland Transport may by resolution -

- (a) set permanent, holiday, variable or minimum speed limits for any road in Auckland under the care, control or management of Auckland Transport;
- (b) set speed limits for any road in a designated location in Auckland under the care, control or management of the Auckland Transport;
- (c) designate urban traffic areas in Auckland under the care, control or management of Auckland Transport.

(2) Auckland Transport may only set a speed limit or designate an urban traffic area if it has complied with the relevant requirements of the Rule.

7 Revocation and Savings

(1) The following bylaws or parts of bylaws respecting speed limits made by the previous local authorities in Auckland that were dissolved on 1 November 2010 by the Local Government (Tamaki Makaurau Reorganisation) Act 2009 are revoked to the extent that they apply to any roads under the care, control or management of Auckland Transport:

- (a) Auckland City Council Traffic Bylaw 2006;
- (b) Franklin District Council Speed Limits Bylaw 2005;

- (c) Chapter 16 (Speed Limits) of the Manukau City Consolidated Bylaw 2008;
 - (d) Part 6 (Traffic Control) of the North Shore City Council Bylaw 2000;
 - (e) Papakura District Council Speed Limits Bylaw 2009;
 - (f) Chapter 18 (Road Speed Limits) of the Rodney District Council General Bylaw 1998; and
 - (g) Waitakere City Council Speed Limits Bylaw 2010;
- (2) The speed limits made under the bylaws referred to in clause 7(1) set out in Schedule 1 to this bylaw remain in effect until changed by resolution made under this bylaw
- (3) Any act undertaken in accordance with any of the bylaws listed in clause 7(1) that is continuing at the commencement of this bylaw, continues to have full force and effect.

Schedule 1 is not set out here in full due to its size - the full schedule will contain approximately 11,500 speed limits currently in force in Auckland and will be on the Auckland Transport website.

Speed Limits Bylaw 2012

DRAFT

(as at 6 December 2011)

SAMPLE SCHEDULE

This schedule is not complete The full schedule will contain approximately 11,500 speed limits currently in force in Auckland and will be on the Auckland Transport website.

Schedule 1 - Part A - 10 km/h

The following roads or parts of roads in this schedule have a speed limit of 10 kilometres per hour.

Road Name	Area/Suburb	Description
WAIREPO SWAMP WALK	KINGSLAND	full length

Schedule 1 - Part B - 20 km/h

The following roads or parts of roads in this schedule have a speed limit of 20 kilometres per hour.

Road Name	Area/Suburb	Description
ARKLES DRIVE	ARKLES BAY	full length
ARKLES STRAND	ARKLES BAY	full length
CAPITOL ROAD	MATAKATIA	full length
MATAKATIA PARADE	MATAKATIA	full length
NGAPARA STREET	RED BEACH	full length
THE ESPLANADE	MANLY	full length
THE STRAND	WAIWERA	full length
Etc		

Schedule 1 - Part C - 30 km/h

The following roads or parts of roads in this schedule have a speed limit of 30 kilometres per hour.

Road Name	Area/Suburb	Description
BEACHFRONT LANE	BROWNS BAY	full length
CIVIC CRESCENT	ALBANY	full length
GRAFTON BRIDGE	AUCKLAND CENTRAL	from Symonds Street to Grafton Road
KOHU ROAD	TITIRANGI	full length
KOPIKO ROAD	TITIRANGI	full length
MANLY ESPLANADE	BROWNS BAY	from 48 metres north of Valley Road to northern end of Manly Esplanade
QUEEN STREET	AUCKLAND CENTRAL	from Custom Street to Mayoral Drive
Etc.		

Schedule 1 - Part D - 40 km/h

The following roads or parts of roads in this schedule have a speed limit of 40 kilometres per hour.

Road Name	Area/Suburb	Description
PONSONBY ROAD	PONSONBY	full length
Etc.		

Schedule 1 - Part E - 50 km/h

The following roads or parts of roads in this schedule have a speed limit of 50 kilometres per hour.

Road Name	Area/Suburb	Description
AARTS AVENUE	MANUREWA	full length
ABBEY STREET	NEWTON	full length
ABBEYGATE STREET	BIRKDALE	full length
ABBOTLEIGH AVENUE	TE ATATU PENINSULA	full length
ABBOTSFORD TERRACE	DEVONPORT	full length
ABBOTTS WAY	REMUERA	full length
ABBY CLOSE	PUKEKOHE	full length
ABEL TASMAN AVENUE	HENDERSON	full length
ABELIA PLACE	PAPATOETOE	full length
ABERCROMBIE STREET	HOWICK	full length
ABERDEEN ROAD	CAMPBELLS BAY	from East Coast Road to 367m northeast of East Coast Road
ABERDEEN ROAD	CAMPBELLS BAY	from 83m west of Beach Road to Beach Road
ABERFELDY AVENUE	HOWICK	full length
ABERFOYLE STREET	EPSOM	full length
ABERLEY ROAD	SCHNAPPER ROCK	full length
Etc.		

Schedule 1 - Part F - 60 km/h

The following roads or parts of roads in this schedule have a speed limit of 60 kilometres per hour.

Road Name	Area/Suburb	Description
COATESVILLE RIVERHEAD HIGHWAY	RIVERHEAD	from 100m south of Riverhead Road to 270m east of Newton Road
ESMONDE ROAD	TAKAPUNA	from Akoranga Drive to 240m east of Barrys Point Road
ONETANGI ROAD	WAIHEKE ISLAND	from Waiata Road to O'Brien Road
OSTEND ROAD	WAIHEKE ISLAND	from Erua Road to O'Brien Road
OTEHA VALLEY ROAD	NORTHCROSS	from State Highway 17 to Fields Parade
WHANGAPARAOA ROAD	WHANGAPARAOA	from Hibiscus Coast Highway to 170m southeast of Dobell Road
WHANGAPARAOA ROAD	WHANGAPARAOA	from 80m northeast of Gulf Harbour Drive to 60m southwest of Mariner Drive
Etc.		

Schedule 1 - Part G - 70 km/h

The following roads or parts of roads in this schedule have a speed limit of 70 kilometres per hour.

Road Name	Area/Suburb	Description
ACCESS ROAD	KUMEU	State Highway 16 to 700m southwest of State Highway 16
AIRFIELD ROAD	TAKANINI	from Porchester Road to Mill Road
ALBANY HEIGHTS ROAD	ALBANY HEIGHTS	full length
ALBANY HIGHWAY	UNSWORTH HEIGHT	from Unsworth Drive to 150m east of Bush Road
ALBERT ROAD	WARKWORTH	300m North of Hill Street to Hudson Road
ALFRISTON ROAD	ALFRISTON	from Porchester Road to Stratford Road
ANCHOR ROAD	PAERATA	full length
ANZAC ROAD	PUKEKOHE	from 85m south of Tremem Place to southern end of Anzac Road
ANZAC VALLEY ROAD	WAITAKERE	from 20m south of Bethells Road to south end of Anzac Valley Road
ARARIMU ROAD	RAMARAMA	from Great South Road to Pratts Road
ATARUA GARDENS	WAIATARUA	full length
ATTWOOD ROAD	PAREMOREMO	from Paremoremo Road to Chatham Avenue
AWHITU ROAD	WAIUKU	from King Street to 840m west of King Street
AWHITU ROAD	POLLOK	from 600m west of Pollok Wharf Road to 150m north of Pollok Wharf Road
AWHITU ROAD	AWHITU	from 400m west of Matakawau Road to 400m west of Hatton Road
BALD HILL ROAD	WAIUKU	from western intersection with Waiuku Road to 520m east of Waiuku Road

Schedule 1 - Part H - 80 km/h

The following roads or parts of roads in this schedule have a speed limit of 80 kilometres per hour.

Road Name	Area/Suburb	Description
ACCESS ROAD	KUMEU	from 700m southwest of SH16 to Station Road
AHUROA ROAD	PUHOI	from 250m northwest of Saleyards Road to 1650m northwest of Saleyards Road
AIRFIELD ROAD	ARDMORE	from Mill Road to Mullins Road
AKA AKA ROAD	PUNI	from Waiuku Road to 200m south of Waiuku Road
ALFRISTON ROAD	ALFRISTON	from Stratford Road to 1300m east of Mill Road
AMREINS ROAD	TAUPAKI	from 80m north of McEntee Road to 1450m north of McEntee Road
AMREINS ROAD	TAUPAKI	Taupaki Road to 800m south of Taupaki Road
ANDERSON ROAD	MATAKANA	Matakana Road to Westminster Glen
APPLEBY ROAD	DRURY	full length
ARROWSMITH ROAD	WAITAKERE	full length
AUBREY ROAD	STILLWATER	full length
AWAAWAROA ROAD	WAIHEKE ISLAND	full length
Etc.		

Schedule 1 - Part I - 90 km/h

The following roads or parts of roads in this schedule have a speed limit of 90 kilometres per hour.

Road Name	Area/Suburb	Description
		none currently

Schedule 1 - Part J - 100 km/h

The following roads or parts of roads in this schedule have a speed limit of 100 kilometres per hour.

Road Name	Area/Suburb	Description
A.RENALL ROAD	POLLOK	full length
ABEL ROAD	HELENSVILLE	full length
ADAMS ROAD	PUKEKOHE	full length
ADAMS ROAD SOUTH	PUKEKOHE	full length
ADAMS ROAD	KAUKAPAKAPA	full length
AHUROA ROAD	MAKARAU	from 1650m northwest of Saleyards Road to West Coast Road
AHUROA VALLEY ROAD	MAKARAU	full length
Etc		

Schedule 1 - Part K - 40 km/h School Zone Variable Speed Limit

The following roads or parts of roads in this schedule have a speed limit of 40 kilometres per hour during the times set out on fixed school zone signs or when school zone variable speed limit signs are activated, as authorised by New Zealand Gazette Notice Number 2696 published in the Gazette of 21 April 2011, No.55, at page 1284. At all other times the speed limit applying will be the limit at other times as specified in the list below.

Road Name	Area/Suburb	Description	Limit at other times
ABERDEEN ROAD	CAMPBELLS BAY	from 367m northeast of East Coast Road to 83m west of Beach Road	50 km/h
AIRPORT ROAD	WHENUAPAI	from the western end of Airport Road to 55m north of the eastern end of Airport Road	50 km/h
ALDERN ROAD	MASSEY	from Don Buck Road to 40m east of Don Buck Road	50 km/h
ALEXANDER AVENUE	TORBAY	from Deep Creek Road to 282m west of Deep Creek Road	50 km/h
AMBERLEY AVENUE	TE ATATU SOUTH	from Flanshaw Road to 40m west of Flanshaw Road	50 km/h
AOTEAROA TERRACE	MURRAYS BAY	from 74m south of Saddleback Rise to Clematis Avenue	50 km/h
APLIN PLACE	BIRKDALE	from Birkdale Road to 50m east of Birkdale Road	50 km/h
ARAHOE ROAD	NEW LYNN	full length	50 km/h
Etc			

BACKGROUND INFORMATION

STRATEGIC CONTEXT

Auckland Transport is required by section 61 of the Local Government (Auckland Transitional Provisions) Act 2010 to review the legacy transport-related bylaws and provisions of bylaws from the previous councils of Auckland. Having seven different sets of bylaws that continue to operate in their previous geographic areas leads to inefficiencies and unnecessary complications in exercising ATs responsibilities as the RCA for the Auckland transport system (and other roads delegated to it). Replacing the legacy bylaws with new, consistent and comprehensive bylaws will simplify and enhance ATs management and control of the roads under its care. Furthermore the legacy bylaws are not consistent with more recent changes in transport legislation.

The development of new regionally consistent bylaws concerning the imposition of traffic controls and speed limits, goes to the heart of AT's objective of contributing to an effective and efficient transport system.

Creating a consistent, rather than piecemeal framework of traffic controls which is utilised in accordance with sound traffic engineering principles and community needs supports a road network which is integrated and moves people and goods efficiently and safely; enhancing customer satisfaction with the infrastructure and services provided by AT. The adoption of a single source of controls for special vehicle lanes, clearways and bus stops, aids in provision of an improving public transport network. Similarly, the application of enforceable traffic and speed controls can support services walking, cycling and ride-sharing.

There is no direct link between the bylaw making powers and the strategic planning documents of the Auckland Spatial Plan and the Unitary Plan. Traditionally, councils have access to both bylaws and district plans to put in place regulatory controls. Indeed under the Local Government Act 2002, Councils are required to give consideration to whether making a bylaw is the best way to achieve its objective and the district plan is seen as one of the primary alternatives.

In Auckland, however, a large proportion of the bylaw-making powers now rest with Auckland Transport rather than Auckland Council, and so the approach of picking between the two options to select the most appropriate is not so readily available. There is a considerable body of bylaws that Auckland Council is not able to make, and Auckland Transport is not the body responsible for the development of the Unitary Plan (although Auckland Transport is very much involved in assisting Auckland Council with consideration of Unitary Plan content where it is able to do so).

There will however still be a number of intersections between AT bylaws and matters that may be covered by the plans. For example, the Unitary Plan may set out objectives and rules in relation to strategic parking design, and the availability of disabled parking and considerations for bus shelters. The Traffic Bylaw will facilitate these aims by enabling the passing of resolutions to put in place parking controls, bus stops and bus and transit lanes.

In relation to the proposed Road Corridor Management bylaw (to be developed next year), there may well be a number of matters that Auckland Council is prevented from making bylaws for which it may choose to cover more fully in the Unitary Plan. This may apply, for example, in relation to rules concerning street trading, signage, and verandas. Auckland Transport will want to make sure that any bylaw provisions that are made in regard to these sorts of matters are not inconsistent with the Unitary Plan.

Auckland Transport's authority to make bylaws

The legislation establishing AC and its Council Controlled Organisations empowers AT to review the existing transport-related bylaws and to make new bylaws in relation to the Auckland transport system.

There are two main acts under which AT is empowered to make bylaws; the LTA98 and LGA02. Under the LTA98 AT has bylaw making powers first by virtue of being the RCA for the Auckland transport system pursuant to section 45 of LGACA which is then expressly confirmed under the list of statutory functions that AT can exercise set out in section 46 of that act. The list also makes it clear that AT can make and enforce bylaws pursuant Part 8 of the LGA02 (this power is broadly stated but accepted as being limited to the transport-related bylaws as AC is able to use these powers for all non-transport related bylaws).

The legacy transport-related bylaws were primarily made under the Transport Act 1962 and the Local Government Act 1974. However, in May 2011 the Transport Act was repealed and all its bylaw making provisions and those contained in the LGA74 were incorporated into the LTA98.

Legal advice (Simpson Grierson) has been sought jointly with AC which confirms that AT's authority to make bylaws is broader than may have been anticipated by some, and includes under the LTA98 bylaw-making powers for the following matters:

- Setting of speed limits, parking, special vehicle lanes (e.g. bus and cycle lanes), left and right turning restrictions, one-way roads, weight limits, engine braking, prohibiting unsuitable vehicles, vehicles on unformed legal roads.
- Construction over roads (e.g. scaffolding, verandas); signage in, on or adjoining a road or visible from a road (including election signs and signs on private property); events on roads; vehicle crossings; pedlars/street trading on roads (e.g. café tables on footpaths); livestock being driven or kept on roads; vegetation on roads (e.g. grass/flower plots, hedges and fences); and any other road related matter related to promoting road safety or protecting the environment.

AC has powers on roads that are not part of the Auckland transport system including roads in beaches, parks and cemeteries. Auckland Council has bylaw making powers on roads that are part of the Auckland transport system in relation to specific matters such as waste collection, liquor control, dog control and freedom camping.

Where AT takes on road controlling authority powers for roads that are outside the Auckland transport system pursuant to delegation it becomes the bylaw-making authority for those roads under the LTA98 as well. An example of this is where NZTA delegates RCA powers for state highways to AT.

Development of a Traffic Bylaw and a Speed Limits Bylaw

The development of bylaws for traffic and speed limits is considered a priority to remove the inconsistencies that apply across the region.

The legacy council's bylaws relating to traffic, parking and the setting of speed limits have been reviewed as required by section 61 of the Local Government (Auckland Transitional Provisions) Act 2010. These bylaws are inconsistent with each other and do not reflect the current bylaw making powers now contained in the LTA98.

In drafting new bylaws, the project team has considered the legacy bylaws and the New Zealand standard model bylaws in addition to bylaws from other parts of New Zealand.

The bylaw making provisions in the LTA98 have been reviewed as the bylaw powers have been restructured and several new provisions have been added.

The draft Auckland Transport Traffic and Speed Limits Bylaws are designed to harmonise the setting of restrictions that apply to the entire Auckland area.

The approach taken to the bylaws leaves the majority of the details for particular traffic control restrictions on the roads to be determined by resolutions made under the bylaw, rather than containing the detail within the bylaw itself. This method is specifically permitted by the LTA98 and allows for the controls to be imposed in a flexible and responsive way.

The power to make resolutions under the legacy bylaws is currently delegated to the Traffic Control Committee. This Committee would continue to exercise this power under the new Auckland Transport bylaws.

A few matters of detail (which are consistent across the region) will be specifically included in the bylaw. This includes provisions such as respecting disabled parking; machinery kept on roads; repair of vehicles on roads.

The proposed Speed Limits Bylaw will contain a schedule setting out all the current speed limits of the region in a single consistent fashion. This will not change the speed limits in any areas but will make it easier for Auckland Transport to maintain a single consistent register of speed limits starting from a common point.

The proposed bylaws have been reviewed and revised based on comments from Auckland Transport staff and an initial independent legal review.

Options considered

Options were considered to ensure AT achieves its objective of putting in place a consistent and safe regime for traffic, parking and the setting of speed limits across the Auckland region. The options considered are:

Option 1

To do nothing by leaving the legacy bylaws that control traffic, parking and speed limits unchanged and respond to issues on a case basis by using the current bylaw criteria. However this option does not enable Auckland Transport to achieve its objective to provide an integrated system of traffic measures. Legacy Bylaws define and control issues differently or not at all. Furthermore some legacy bylaws contain provisions that are out dated or inconsistent with current transport legislation. This option would not allow for the updating of the bylaw provisions to align with the latest measures contained in the Land Transport Rules and Regulations including the Land Transport (Offences and Penalties) Regulations 1999, Land Transport (Road User) Rule 2004 and the Land Transport Rule: Setting of Speed Limits 2003 and the Land Transport Rule: Traffic Control Devices 2004.

Option 2

Is to revoke the legacy bylaws that regulate traffic, parking and set speed limits as they apply to roads under AT and make region wide bylaws to provide a uniform system to regulate traffic and parking and the setting of speed limits for these roads. The legacy bylaws were made under the Transport Act 1962 and the LGA74 and the provisions in these Acts have been repealed and transferred to the LTA98. The LTA now also includes new bylaw making powers that were not previously available to the legacy councils, for example the ability to make bylaws enhancing or promoting road safety or providing protection for the environment. Consequently, AT proposes that option 2 be preferred and that AT makes a Traffic Bylaw and a Speed Limits Bylaw. Option 2 will ensure the retention of the current controls set by the legacy councils set by resolution or in schedules to ensure minimum disruption to the existing system of controls without having to assess all existing control measures. These measures will stay in place until they are changed as appropriate and after consultation by resolution in accordance with the enabling provisions in the proposed bylaws.

The benefits and costs of option 2 is that AT can ensure efficiencies in terms of traffic control measures and meet its statutory obligations under transport legislation across the Auckland region by ensuring the ability to make consistent restrictions across the region, consistency in signage and to ensure enforcement can be consistent.

Consultation requirements for the making of bylaws under section 22AD of the LTA98

The consultation requirements for local authorities and other RCAs differ.

Section 22AD(1) of the LTA98 provides that a RCA that is a local authority must follow the SCP set out in section 83 of the LGA02. However, although AT is able to exercise the functions and powers of a local authority under the LTA98 it is not actually, or deemed to be, a local authority as that term is defined in that Act. Consequently, in making a bylaw under the LTA98, AT must comply with the requirements in section 22AD(2) applying to a RCA that is not a local authority.

The legal obligation on AT is to consult with a specific list of stakeholders rather than follow the SCP. The list of stakeholders who will actually be consulted under the two approaches is not so different, but there are procedural differences. For example there is no mandatory requirement to hold hearings unlike the SCP and the consultation can be carried out entirely on written submissions. Additionally if not following the SCP there would be no formal requirement for the AT Board to approve the statement of proposal prior to consultation commencing.

Section 22AD(2) requires Auckland Transport to consult with:

- Occupiers of any properties adjoining the road to which the proposed bylaw would apply;
- Any affected road controlling authorities that are responsible for roads that join, or are located near, the road to which the proposed bylaw would apply;
- The territorial authority for the area where the road is located;
- Any affected local community;
- The Commissioner of Police;
- Any other organisation or road user group that the road controlling authority considers affected; and
- NZTA.

Independent legal advice has confirmed that AT could make bylaws under the LTA98 without following the SCP, but has noted this leaves open the small risk that a person might seek to avoid prosecution under the bylaw by challenging this method of making the bylaw. Such a challenge should not succeed, but it could be ruled out entirely given the reference in section 46 to AT having access to both RCA and local authority functions and powers under the LTA98. As the LTA98 legislation for AT's bylaw-making powers is untested, in the unlikely event of a legal challenge we would not want the court to question whether the bylaw had not been sufficiently consulted on. The Bylaws Project team also notes that in addition to this small risk there are other reasons why it may be more appropriate to pursue the SPC process for AT's bylaws. The SCP may be seen as being a more transparent process because of its use of hearings, and therefore more favourably in line with AT's general approach. Any bylaws that AT makes that rely on the LGA02 will need to be made by SCP, and it would be preferable to have a consistent methodology for all AT bylaws. Apart from NZTA state highway network, the types of RCAs that are not local authorities will generally be in control of much smaller roading networks than AT (for example, district health boards for hospitals, property developers for roads in new subdivisions, and mall and supermarkets for their car parks and access roads). Following the same process as local authorities rather than these other RCAs might therefore be seen as being more appropriate.

Weighed against these factors in favour of following the SCP even if not legally required are the benefits to be gained by AT in following a slightly simpler process. The obligations imposed on AT under section 22AD can be encompassed within the SCP process. For these reasons, it is recommended that the SCP be followed.

Consultation Stages—Special Consultative Procedure

In considering the list of stakeholders that AT would need to consult under the section 22AD(2) procedure, the project team determined that the list could be split into three distinct groupings and propose to consult with them in three stages as follows:

- 1) With the NZTA and the Police to ensure technically and legally enforceable bylaws
- 2) With the major stakeholders including the Auckland Council, Local Boards, Maori Statutory Board, Iwi, the AA, Road Transport Forum, and neighbouring Councils to sharpen the focus of the bylaws with expert advice.
- 3) Public consultation will be by public notification in the newspaper and on the Auckland Transport website after taking into account comments made in the first two stages of consultation.

Consultation is underway with the NZTA and the Police.

Making the Bylaws

When the Board considers making a bylaw it is required to comply with the provisions for hearings in part 7 of LGOIMA. This means that the meeting held by the Board in which the decision is to make the bylaw, must be publicly notified, agendas and any associated reports must be made available to the public to inspect or receive a copy, the public are entitled to attend the meeting, and the public are entitled to inspect or receive a copy of minutes of the meeting.

The Minister of Transport must be notified within one week after it is made by the Board in accordance with Section 22AB(4) of the LTA98. While section 22AC provides that the Minister can by law disallow all or part of a bylaw that is inconsistent with any Act, or is unreasonable or undesirable in relation to its impact on traffic, the consultation with the NZTA on the bylaws will ensure any issues such as these should not arise.

The bylaw will commence once public notice is given as required by the LTA98 section 22AE.