



1 April 2022

OC220194

Hon Michael Wood
Minister of Transport

Action required by:
Tuesday, 5 April 2022

TACKLING UNSAFE SPEEDS - CONSEQUENTIAL AMENDMENT TO THE ROAD USER RULE

Purpose

Provide the Land Transport (Road User) Amendment Rule 2022 (the Road User Rule amendment) that consequentially amends the Land Transport (Road User) Rule 2004 (Road User Rule). This is to ensure alignment with the proposed Land Transport Rule: Setting of Speed Limits 2022 (the new Speed Rule).

Key points

- Whilst developing the proposed new Speed Rule we have identified a consequential amendment required to the Road User Rule.
- The Road User Rule amendment clarifies that the prohibition on drivers from exceeding speed limits in the Road User Rule relates to speed limits set under the new Speed Rule. This will improve the cohesiveness, alignment, and readability of the law. However, this retains the status quo and does not create any new policy settings. Instead, it simply clarifies the law regarding the new Speed Rule.
- s 9(2)(h) [REDACTED]
- Pending Cabinet approval on policy decisions related to the new Speed Rule, and the two sets of associated new regulations, you may sign the Road User Rule amendment alongside the new Speed Rule with both to come into force on 19 May 2022.

Recommendations

We recommend you:

- | | | |
|---|--|----------|
| 1 | agree that a consequential amendment is required to the Land Transport (Road User) Rule 2004 | Yes / No |
|---|--|----------|

- 2 **sign** Land Transport (Road User) Amendment Rule 2022 on 19 April 2022, after Cabinet but before Executive Council, subject to Cabinet notation/approval of the new Speed Rule and associated regulations Yes / No
- 3 **authorise** notification of the signed new Road User Rule in the *New Zealand Gazette* Yes / No
- 4 **authorise** the signed Road User Rule amendment to be presented to the House of Representatives Yes / No



Matt Skinner
**Kaiwhakahaere | Acting Manager,
 Mobility and Safety**

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- Minister's office to complete:**
- Approved Declined
 - Seen by Minister Not seen by Minister
 - Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Charles Owen, Rōia Matua Senior Solicitor	s 9(2)(a)	✓
Andrew Zielinski, Kaitohutohu Matua Senior Adviser	s 9(2)(a)	
Matt Skinner, Kaiwhakahaere Acting Manager, Mobility and Safety	s 9(2)(a)	

TACKLING UNSAFE SPEEDS - CONSEQUENTIAL AMENDMENT TO THE ROAD USER RULE

Consequential amendments are needed as part of the proposed Tackling Unsafe Speeds legislation

- 1 We have provided you with Cabinet papers, a proposed new Land Transport Rule: Setting of Speed Limits 2022 (the new Speed Rule) and two sets of regulations as a part of the Tackling Unsafe Speed proposals.
- 2 Whilst developing that legislation, in particular the new Speed Rule, we have identified a necessary consequential amendment to the Land Transport (Road User) Rule 2004 (Road User Rule). The proposed amendment clarifies that the prohibition on drivers from exceeding speed limits in the Road User Rule relates to speed limits set under the new Speed Rule.
- 3 This will improve the cohesiveness and readability of the law. The change is entirely consequential to the new Speed Rule and retains the status quo, not creating any new policy settings. Instead, it just clarifies the law regarding the new Speed Rule.
- 4 The proposed consequential amendment is attached for your consideration.

You should sign the consequential amendment at the same time you sign the new Speed Rule

- 5 Should you agree with the proposed consequential amendment to the Road User Rule, you should sign it at the same time you do the new Speed Rule [OC220090 refers]. This will be on 19 April 2022, after Cabinet but before Executive Council, subject to Cabinet notation and approval of the two sets of regulations.

The Land Transport Act gives you legal authority to make the amendment

- 6 The Land Transport Act 1998 (LTA) empowers you as Minister to make and amend ordinary land transport rules. You are authorised to make the proposed consequential amendment to the Road User Rule under the following sections of the LTA:
 - 6.1 section 152 is a general empowering provision to make rules for matters such as assisting and promoting land transport safety.
 - 6.2 section 153 is an empowering provision to make rules concerning road user behaviour.

You must legally consider several matters when making or amending a rule

- 7 Section 164(2) of the LTA requires that you consider, and give such weight as you consider appropriate, to several matters when deciding to make or amend a land transport rule. You must consider these matters yourself and may not delegate this obligation.

- 8 We have previously provided you with advice on these matters [OC220090 refers]. For your convenience this is reproduced in Annex 1.

Consultation on making the amendment has effectively occurred through consultation on the new Speed Rule

- 9 Before making a rule, section 161(2) of the LTA requires you to:
- 9.1 publish a notice of your intention to make the rule
 - 9.2 give interested persons a reasonable time, which must be specified in the notice, to make submissions on the proposal
 - 9.3 consult with such persons, representative groups within the land transport system or elsewhere, government departments, and Crown entities as you in each case consider appropriate.

s 9(2)(h)

10 s 9(2)(h)

11 s 9(2)(h)

Consultation completed on the new Speed Rule

- 12 We have previously provided you with advice on consultation on the new Speed Rule [OC220090 refers]. For your convenience this is reproduced in Annex 2.

The amendment has not been referred to the Regulations Review Committee

- 13 Ordinary rules are disallowable instruments for the purposes of the Legislation Act 2019. Under section 114 of that Act they must be also be laid before the House of Representatives not later than the sixteenth sitting day after the day on which they are made.
- 14 A draft of the consequential amendment to the Road User Rule has not been referred to the Regulations Review Committee under Standing Order 326(2). In the past, we understand that ministers' preference has been to not refer draft rules to the Committee. There does not appear to be any grounds for the Regulations Review Committee to draw the amendment to the Road User Rule to the attention of the House under Standing Order 327(2).

The amendment complies with the relevant principles, rights, and legislative frameworks

- 15 The new rule is consistent with the:
- 15.1 principles of the Treaty of Waitangi
 - 15.2 rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 15.3 principles and guidelines set out in the Privacy Act 2020
 - 15.4 relevant international obligations
 - 15.5 *Legislation Guidelines (2021 edition)*, maintained by the Legislation Design and Advisory Committee.

Waka Kotahi will meet administrative costs

- 16 The costs of the rule amendments, and processes associated with administering them, are being met through current Waka Kotahi funding.

The amendment will be publicised in the *New Zealand Gazette* and on the parliamentary legislation website

- 17 Parliamentary Counsel Office will notify the making of the Road User Rule amendment in the *New Zealand Gazette*, as required by section 161(3)(a) of the LTA. Parliamentary Council Office will also publicise the Road User Rule amendment on the legislation website.

The amendment will come into force aligned with the new Speed Rule, according the 28-day rule

- 18 The new Speed Rule and regulations are expected to come into force on 19 May 2022 and the consequential amendment to the Road User Rule is set to come into force on the same day.
- 19 It is a requirement of Cabinet that, unless a waiver is granted, regulations¹ must not come into force until at least 28 days after they have been notified in the *New Zealand Gazette*.
- 20 The 28-day rule reflects the principle that the law should be publicly available and capable of being ascertained before it comes into force. For the Road User Rule amendment and new Speed Rule to comply with the 28-day rule, these rules must be notified in the *Gazette* no later than 21 April 2022, which is at least 28 days before commencement.

¹ In this context, the reference to regulations includes rules.

ANNEX 1

Matters to be considered under section 164(2) of the LTA when making or amending a land transport rule

Matter to be considered	Advice
<p>Section 164(2)(a)</p> <p>The level of risk existing to land transport safety in each proposed activity or service</p>	<p>Unsafe speeds are a critical contributor to deaths and serious injuries (DSIs) on our roads. Given the new rule provides for a more effective speed management approach, we expect land transport safety to be significantly enhanced.</p>
<p>Section 164(2)(b)</p> <p><i>The nature of the particular activity or service for which the rule is being established</i></p>	<p>The new rule involves three main components addressing speed management in land transport:</p> <ul style="list-style-type: none"> • establishing a new regulatory framework for speed management • transitioning to safer speed limits around schools • implementing a more effective approach to using road safety cameras.
<p>Section 164(2)(c)</p> <p><i>The level of risk existing to land transport safety in NZ in general</i></p>	<p>The level of risk to land transport safety regarding DSIs from crashes continues to be major concern and reducing DSIs is a Government priority. Road to Zero: New Zealand's Road Safety Strategy for 2020-2030 (Road to Zero) sets out our vision for a New Zealand where no one is killed or seriously injured in road crashes. Tackling unsafe speeds is a key Road to Zero action area.</p>
<p>Section 164(2)(d)</p> <p><i>The need to maintain and improve land transport safety and security, including (but not limited to) personal security</i></p>	<p>The primary purpose of the new rule is to improve land transport safety through a more proactive, coordinated, and transparent approach to speed management. We expect the approach to also improve the security of both the land transport system and personal security by reducing vehicle crashes. This should in turn reduce problems in the network, such as possible delays in transporting essential goods, and reducing the possibility of people's personal security being compromised through the unsafe speeds of others.</p>
<p>Section 164(2)(da)</p> <p><i>The appropriate management of infrastructure, including (but not limited to):</i></p> <p>(i) <i>the impact of vehicles on infrastructure; and</i></p> <p>(ii) <i>whether the costs of the use of the infrastructure are greater than the economic value generated by its use</i></p>	<p>Implementing safer speed limits may have benefits for managing infrastructure. This may occur, for example through:</p> <ul style="list-style-type: none"> • creating environments which encourage more active transport, thereby reducing vehicle kilometres travelled and consequent impact on infrastructure • lower vehicle speeds reducing vehicle impact on road surfaces <p>New infrastructure will be established to meet Road to Zero road safety outcomes through speed management planning. Waka Kotahi and other road controlling authorities (RCAs) will assess the level of safety infrastructure necessary for particular roads, to balance the social and economic benefit of reducing DSIs, with safety infrastructure costs.</p>

Matter to be considered	Advice
<p>Section 164(2)(e)(i) Whether the proposed rule assists economic development</p>	<p>The social costs of DSIs on New Zealand's roads were estimated to be over \$3.4 billion in 2021.² These costs include the value of a statistical life (for fatalities), loss of life quality (for serious injuries), reduced economic productivity, medical and other resource costs, and the devastation that deaths and serious injuries have on communities.</p> <p>Implementing safer speeds may increase travel times in some circumstances, potentially impacting economic outcomes. However, safer speeds can also improve economic outcomes through less disruption to the network and reducing traffic congestion and emissions. While evaluation of the rule's impact would be needed, given the high social cost of DSIs, we expect the new rule to enhance economic development overall.</p>
<p>Section 164(2)(e)(ii) Whether the proposed rule improves access and mobility</p>	<p>Safer speeds create safer roading environments:</p> <ul style="list-style-type: none"> • encouraging use of more active transport modes (walking, cycling, micro-mobility use) thus increasing mobility options • which protect more vulnerable road users (pedestrians, children, seniors, the disabled) thus improving access.
<p>Section 164(2)(e)(iii) Whether the proposed rule promotes and protects public health</p>	<p>Safer speeds reduce DSIs, reducing negative health impacts on the population and our public health system. They also create environments encouraging more active transport use, increasing health and wellbeing. Further, they can contribute to reduced carbon emissions, enhancing health.</p>
<p>Section 164(2)(e)(iv) Whether the proposed rule ensures environmental sustainability</p>	<p>There is a large body of international evidence indicating that safer speeds can contribute to reduced carbon emissions, facilitate a shift to more active transport methods, and reduce vehicle kilometres travelled. These factors are all relevant to help prevent climate change.</p>
<p>Section 164(2)(ea) The costs of implementing measures for which the rule is being proposed</p>	<p>Approximately \$1 billion per annum is budgeted in total for the next ten years to fund Road to Zero outcomes, including the Tackling Unsafe Speeds proposals. This includes for safety infrastructure, road policing, automated enforcement (safety cameras) and road safety promotion, which all support safer speeds.</p> <p>Monetised cost estimates of parts of the proposals, where possible, are provided in the regulatory impact analysis. This includes costs of:</p> <ul style="list-style-type: none"> • establishing the new speed management framework (\$3.4 million for Waka Kotahi) • implementing safe speeds around schools (\$196 million) • investing in new safety camera types (different scenarios ranging between \$6 million and \$200 million over 10 years). <p>Costs of all territorial road controlling authorities implementing safer speeds, for example, will depend on decisions following speed management planning. Total costs of the proposals are therefore not yet known.</p>
<p>Section 164(2)(eb) New Zealand's international obligations concerning land transport safety</p>	<p>The new rule relates to a domestic speed management approach not connected to any international obligations.</p>

² Te Manatū Waka / Waka Kotahi Crash Analysis System data.

Matter to be considered	Advice
<p>Section 164(2)(f) The international circumstances in respect of land transport safety</p>	<p>The new rule's proposals are based on international best practice from countries and jurisdictions that have achieved significant reductions in DSIs. This includes, for example, Sweden where tackling unsafe speeds has been a dominant focus as part of the Safe System³ approach. The number of road deaths per 100,000 inhabitants in Sweden fell by 68 percent between 2000 and 2019.⁴</p>
<p>Section 164(2)(g) Such other matters as you consider appropriate in the circumstances</p>	<p>Lowering speed limits to align with safe and appropriate speeds can attract criticism from communities regarding possible longer travel times. However, research has shown that reducing speeds somewhat, generally results in relatively small impacts on travel time.</p> <p>For example, a Waka Kotahi commissioned research project⁵ found that a drop in maximum speed travelled along certain routes from 100km/h to 80km/h, increased travel times by only around 10 percent and reduced fuel use by about 15 percent.</p>

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³ The four Safe System principles under Road to Zero are: (1) People make mistakes that lead to road crashes. (2) The human body has a limited physical ability to tolerate crash forces before harm occurs. (3) The responsibility for safety is shared amongst those who design, build, manage and use roads and vehicles. (4) All parts of the system must be strengthened so that, if one part fails, road users are still protected.

⁴ International Transport Forum (2020). Road Safety Report 2020 - Sweden. OECD.

⁵ Rowland T. and McLeod D. (2017). Time and fuel effects of different travel speeds. Malatest International.

ANNEX 2

Consultation on the new Speed Rule

- 21 By a delegation dated 31 March 2021, you delegated the responsibility to consult on the new Speed Rule to the Board of Waka Kotahi. In accordance with that delegation, Waka Kotahi published notice of your intention to make the new rule on 23 April 2021 and undertook public consultation between 23 April and 25 June 2021.
- 22 Extensions were provided to eight road controlling authorities (RCAs) for two additional weeks to allow time for these submissions to go through their appropriate sign-off process.
- 23 A total of 325 submissions were received from individuals, businesses and special interest groups, schools, industry associations and local government. As part of this public consultation process Waka Kotahi officials, with a Te Manatū Waka representative, also ran fourteen workshops with RCAs across New Zealand, covering eleven locations. Workshops were attended by a range of council staff and elected officials, including mayors, and iwi, industry associations and special interest groups.
- 24 Consultation with a wide range of government agencies on the new rule also occurred over late December 2021 to early February 2022. Broader comprehensive consultation on the Tackling Unsafe Speeds proposals overall, including with stakeholder interest groups, government agencies, and individuals, has also occurred over several years from 2018.
- 25 On the basis outlined above we consider you can conclude that appropriate consultation under section 161(2) has occurred.