

REPORT

TO: Chief Executive Officer

FOR: Council Meeting – 25 March 2009

FROM: Bylaw Analyst

DATE: 9 March 2009

SUBJECT: Adoption of the draft Selwyn District Council Traffic and Parking Bylaw 2009 for the Purpose of Public Consultation

1. RECOMMENDATION

- 1.1 That Council adopt for the purposes of public consultation the draft Selwyn District Council Traffic and Parking Bylaw 2009 as attached to this report together with the corresponding Statement of Proposal and Summary of Information.**
- 1.2 That a sub-committee consisting of Councillors Morten, Stewart and Philps hear and consider the submissions and report back to the Council at the 24 June 2009 Council meeting for adoption of the final Selwyn District Council Traffic and Parking Bylaw 2009.**

2. PURPOSE

- 2.1 The purpose of this report is to:**
 - (a) Present the proposed new Selwyn District Council Traffic and Parking Bylaw 2009 for consideration and put in place the special consultative procedures necessary to adopt the bylaw.
 - (b) Recommend the appointment of a Bylaw Subcommittee consisting of Councillors and Council staff to hear and consider any submissions made on the proposed Selwyn District Council Traffic and Parking Bylaw 2009.
 - (c) The bylaw must go through a pre-determined consultative process, which is a requirement for Council under Section 83 of the Local Government Act (LGA) 2002. Other stakeholders and interested parties also need to be consulted such as adjoining Local Authorities as part of this process.

3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

- 3.1 The main object and intent behind the original bylaws has changed significantly in the proposed Traffic and Parking Bylaw 2009, which in most cases pre-dates amalgamation in 1989 to form Selwyn District.**

- 3.2 While the overall intent and principles that created the existing bylaws remain similar in context, the proposed bylaw also contains controls relating to current issues such as the “boy racer” problem.
- 3.3 The proposed bylaw has been checked for consistency with existing bylaws and areas of duplication have been removed (for example, droving of stock).
- 3.4 The Local Government Act 2002 requires that the Special Consultative Procedure is required to be used when making amending or revoking any bylaw made under the Act.

4. HISTORY/BACKGROUND

- 4.1 Currently there are five sets of bylaws detailing with Traffic and Parking, one for Paparua, two for Ellesmere, one for Malvern and the Kildare Terrace One Way Traffic Bylaw 2008. The proposed new bylaw brings together and reviews the five sets of bylaws that are still operative.
- 4.2 These bylaws are the Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008, the Paparua County Bylaw 1981 Section 3 Roads, Traffic etc, the Ellesmere County Council Bylaw No.1 1979, The Limiting of Parking in Leeston Township, the Ellesmere County Council Bylaw 1985 Traffic and Parking and the Malvern County Council Bylaw No 4 1978. (Refer to Appendix One).
- 4.3 Both Council staff and Buddle Findlay agree that it is appropriate to revoke four of the Traffic and Parking bylaws and combine these into a new bylaw as they have not been updated under the Local Government Act 2002.
- 4.4 The Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008 that was reviewed and adopted by the Council in June 2008 has been incorporated into the proposed Traffic and Parking Bylaw 2009. Incorporating this bylaw into the proposed bylaw will streamline the future bylaw review process and improve administration of this type of activity.
- 4.5 In January 1995 Council Executive Officer G R Singleton reviewed the current Traffic and Parking bylaws and developed a new “Traffic and Parking Bylaw” (Appendix One). It appears that while the draft was completed the bylaw was never formally adopted by the Council and therefore has no legal standing. The proposed bylaw does not utilise this previous draft and has been written to reflect current requirements and circumstances. It must also be noted that the draft bylaw was written under the Local Government Act 1974.

5. PROPOSAL

- 5.1 The Bylaw Analyst has developed the proposed Traffic and Parking Bylaw 2009 in consultation with a working party consisting of Council staff representing Asset Management, Regulatory, the Police and Councillors (Appendix Two).
- 5.2 Specific issues that arose from these meetings included the “boy racer” problems in the Selwyn District, the requirement for specific information relating to vehicle access ways and the level of penalty for breach of the bylaw.

5.2.1 “Boy Racer” Working Party

- 5.2.1.1 At the request of the Council a working party was formed to consider the issue. On Monday 27 October 2008 the first working party meeting was held. As a result of this meeting it was decided that the issue of “boy racers” (a term to describe illegal street racers and the congregation of unruly people and their vehicles) would be incorporated into the proposed draft Traffic and Parking Bylaw 2009.
- 5.2.1.2 Subsequently the next two meetings were incorporated into the Traffic and Parking Bylaw and the participants from the “Boy Racer” Working Party Meeting were included in this process.

5.2.2 “Traffic and Parking” Working Party

- 5.2.2.1 On 2 November 2008 and 10 February 2009 working party meetings were held to finalise the draft bylaw before legal advice was obtained. Throughout this process the Bylaw Analyst provided the working party with updates on progress.

5.2.3 Prohibited Times on Roads and Material/Debris on Roads

- 5.2.3.1 This issue had been brought to the attention of the Council by a number of residents who are affected directly by this activity and by the Police.
- 5.2.3.2 Information for the new clauses within the proposed bylaw were sourced and provided from the Tauranga District Council who have implemented a new traffic and parking bylaw in October 2007. The equivalent Christchurch City Council Bylaw was also considered as part of this process to ensure a degree of synergy existed in dealing with this cross boundary issue. It was determined that the content of the Tauranga District Council was easy to read and understand and the working party supported this as the preferred clause.
- 5.2.3.3 It must be noted that the Traffic and Parking Bylaw clearly outlines those vehicles which are not covered by the restriction and will not unduly interfere with the common law rights of individuals to use those roads.

5.2.4 Vehicle Crossings

- 5.2.4.1 While the current Paparua County Bylaw 1981 has a provision for footpaths, channel crossing etc, this bylaw does not provide enough specific power for the Council to undertake repairs and recover this from the person who has carried out the work. This issue was brought to the attention of the working party by the Regulatory Department and the Asset Management Department. It was determined that the best way to resolve this issue would be through the proposed new bylaw.

- 5.2.4.2 Additional to this the Paparua bylaw only applies to one area of the Selwyn District and therefore would be difficult to enforce over the entire district. One new bylaw would address this adequately.

5.2.5 Offences and Penalties

- 5.2.5.1 After the last working party meeting on 10 February 2009, further legal advice was obtained as several of the amendments were quite significant with probably the most difficult amendment being the consideration of amending the bylaw penalty to \$20,000.00. While the Working Party considered that the level of fine imposed should be higher, legal advice does not support this. Appendix Five details the legal opinion from Buddle Findlay.
- 5.2.5.2 It was also noted from other Local Government bylaws that they either do not provide a fine in the bylaw (they just refer to the LGA 2002) or they do provide a fine of up to \$20,000 for several of the offences with other penalties provided under the Land Transport Act.
- 5.2.5.3 In summary, a large number of the offences in the bylaw are provided for under the Land Transport Act (infringement fines etc) and this is where the Police can issue tickets/fines. However it must be noted that the Council can also recover monies from persons for having to carry out work for material/debris on roads, damage to road berms or footpaths. This would be a debt to the person and would result in debt collection if not paid.
- 5.2.6 Legal advice has been sought on the proposed new bylaw and any further amendments suggested resulting from this has been incorporated as necessary.

6. **STATEMENT OF PROPOSAL AND SUMMARY OF INFORMATION**

- 6.1 As part of consultative process a Statement of Proposal and Summary of Information for the bylaws need to accompany the release of the proposed new bylaw detailing the nature, reasons, statutory requirements, benefits/costs, options, consultation and submissions process pertaining to each draft bylaw. This enables the public to be fully informed about the process leading to final adoption.
- 6.2 The Statement of Proposal and Summary of Information for the proposed new bylaw is attached to this report (Refer to Appendix Three).
- 6.3 The Statement of Proposal details the options available to Council in reviewing the bylaws which are as follows;
- 6.4 Proposed Traffic and Parking Bylaw 2009

6.4.1 *Options Available to Council*

1. **Do Nothing** – The Council has responsibilities for the roading network and infrastructure as provided for within the Local

Government Act 2002 and the Land Transport Act 1998. On this basis this option is not supported by the Council. The current Bylaws are outdated and are no longer suitable.

2. **Revoke the bylaw and rely on other methods (public education)** – This option is not seen as being practical as it would mean the Council would be relying on the co-operation of several different parties. Clear rules about what is permitted, with penalties, which can be enforced if those rules are broken are required. On this basis this option to rely on other methods is not supported.
3. **Proceed with the review** – The review of the current bylaws will ensure they are up to date with relevant transport legislation and rules and also management and operating best practices.

This Statement of Proposal has been prepared on the basis that Council wishes to proceed with Option 3: **Proceed with the review** to formulate a proposed new Bylaw.

6.4.2 *Proposed Timeline for Consultation*

The consultation for the proposed Selwyn District Council Traffic and Parking Bylaw 2009 is as follows:

Timeline	Selwyn District Council Traffic and Parking Bylaw 2009
25 March 2009 (Council meeting)	<ul style="list-style-type: none">• Adoption of the draft Selwyn District Council Traffic and Parking Bylaw 2009
4 April 2009 Bylaw advertised	<ul style="list-style-type: none">• Advertise for public submissions to the draft Selwyn District Council Traffic and Parking Bylaw 2009
4 May 2009 Submissions close	<ul style="list-style-type: none">• Written submissions close at 4:00pm at SDC service centres
1,3,4 June 2009 Submissions hearing (to be confirmed)	<ul style="list-style-type: none">• Hearings of submissions on the draft Selwyn District Council Traffic and Parking Bylaw 2009 by a subcommittee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
24 June 2009* (Council Meeting)	<ul style="list-style-type: none">• Adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 at its ordinary Council Meeting
27 June 2009	<ul style="list-style-type: none">• Public notification on the adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 by the Council and its commencement date
1 July 2009	<ul style="list-style-type: none">• Commencement date of new Selwyn District Council Traffic and Parking Bylaw 2009
8 July 2009* (Council Meeting)	<ul style="list-style-type: none">• <i>Adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 by Council at its ordinary Council Meeting</i>

* It is expected that written submissions will be reviewed and heard if requested by an appointed subcommittee of Council staff and Councillors. From this process, amendments or changes to the draft bylaw can be incorporated for the consideration of Council to adopt the bylaw at its meeting of 24 June 2009. If it is the view of the subcommittee that the draft bylaw cannot be presented at that time for adoption or if there are further considerations identified by the Council at the meeting of 24 June 2009, this shall be reported back to Council including recommendations on how to proceed, or the final bylaw will be sent for adoption at the Council meeting of 8 July 2009.

7. VIEWS OF THOSE AFFECTED/CONSULTATION

7.1 View of those affected/consultation:

- 7.1.1 The general public will be invited to make submissions on the proposed new bylaw. Public consultation on the bylaws will be undertaken between 4 April to 4 May 2009. Notification measures will include utilising the Public Notices in the Press, Council Call and other local community newspapers where considered appropriate.
- 7.1.2 Specific groups and organisations will be invited to submit directly as identified relevant to the bylaws. These are listed in the Statement of Proposal and could include for example the New Zealand Transport Agency and freight companies.
- 7.1.3 On receipt of submissions a Bylaw Subcommittee consisting of Councillors and Council staff is proposed to be convened to consider and hear the submissions made on the proposed new bylaws. Based on these deliberations the proposed new bylaws will be amended as necessary and reported to Council.

7.2 Consultation with Maori:

- 7.2.1 The Council has entered into discussions with the local Runanga in recognition of our special partnership with Maori.

8. COMMUNITY OUTCOMES

- 8.1 Appendix Four provides a review of the Community Outcomes and details how the Traffic and Parking contribute.

9. NEGATIVE IMPACTS

- 9.1 The bylaw is unlikely to negatively impact on the community as a whole or on other Council activities and will assist in the long term sustainable management of transportation in the Selwyn District.

10. RELEVANT POLICY/PLANS

- 10.1 The current Selwyn District Council Traffic and Parking Bylaws and the draft 1995 Traffic and Parking Bylaw have been considered as part of the review process and are attached to this report (Refer to Appendix One).

11. LEGAL IMPLICATIONS

11.1 NZ Bill of Rights:

- 11.1.1 Section 155(2) ((b) of the Local Government Act 2002 requires that any new bylaw not be inconsistent with the NZ Bill of Rights Act 1990. Council have obtained legal advice to ensure that the proposed new bylaws are consistent with the NZ Bill of Rights Act 1990.

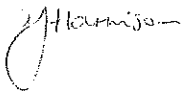
- 11.1.2 The review of the current bylaw is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions and the final consideration being made by an elected Council.

12. FUNDING IMPLICATIONS

- 12.1 The recommendations contained in this report do not have any significant funding implications.

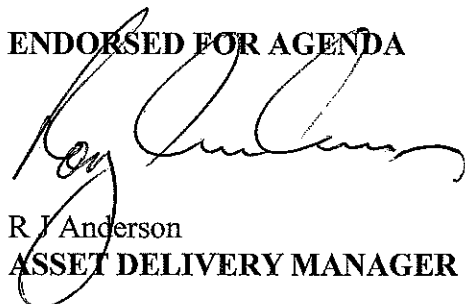
13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

- 13.1 The Asset Management Bylaw Analyst has developed the proposed new bylaw with Council staff representing Asset Management, Regulatory, the Police, Councillors and with the assistance of Susan Newell and Kerry Smith of Buddle Findlay (Council Solicitors).



K J Harrison
BYLAW ANALYST

ENDORSED FOR AGENDA



R J Anderson
ASSET DELIVERY MANAGER

APPENDIX ONE

CURRENT TRAFFIC AND PARKING BYLAWS

- Paparua County Bylaw 1981 Section 3 Roads, Traffic etc
- Ellesmere County Council Bylaw No.1 1979, The Limiting of Parking in Leeston Township
- Ellesmere County Council Bylaw 1985 Traffic and Parking
- Malvern County Council Bylaw No 4 1978

CURRENT KILDARE TERRACE ONE WAY TRAFFIC BYLAW 2008

DRAFT TRAFFIC AND PARKING BYLAW 1995

~~Copy No. 1/2~~

THE PAPARUA COUNTY

BYLAW 1981

POWERS AND AUTHORITIES

IN PURSUANCE and exercise of the powers and authorities vested in the Council by the "Local Government Act 1974", "Health Act 1956", "Public Works Act 1981", "Land Drainage Act, 1957" and amendments thereto and Regulations thereunder, and of all and each and every other power and authority hereunto enabling the Paparua County Council, hereby makes and ordains this bylaw.

SHORT TITLE

The short title of this bylaw shall be

"THE PAPARUA COUNTY BYLAW, 1981"

Certificate of Confirmation

In pursuance of the Bylaws Act 1910 I hereby confirm the Paparua County Bylaw 1981 and declare the same came into force on the 15th day of December 1981 except insofar as those aspects which relate to the use of animal traps in rural areas of the district which came into force on the 24th day of August 1982, and those aspects which relate to fire safety and fire prevention which came into force on the day specified below.

Signed at Wellington this 3rd day of November 1982.

D. A. Highet

(D.A. Highet)
Minister of Local Government

PAPARUA COUNTY BYLAW 1981 - SECTION 3

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ROADS, TRAFFIC ETC

1. This bylaw is to be construed with Bylaw 1981 - Section 1
2. a) PERMIT TO LAY OUT A NEW ROAD
No person shall lay out or form a new road without the previous consent in writing of the Council in that behalf first obtained. For every such consent the person applying for the same shall pay to the Council at the time of making the application, a fee for such amount as may from time to time be prescribed by resolution of the Council.
b) SPECIFICATION AND CONDITIONS FOR ROADS
Every person who shall lay out a road shall lay out such road at such level as will afford the easiest practicable gradients throughout the entire length of such road for the purpose of securing easy and convenient means of communication with any other road or intended road, with which such road may be connected, or may be intended to be connected, and as will allow compliance with the provisions of any statute or bylaw for the regulation of roads and buildings, and shall comply with current Council specifications or such other specification as may be prescribed in any case.
3. DROVING OF STOCK
a) Except with the express and written permission of the Council and subject to strict compliance with any conditions or restrictions imposed, no stock may pass or be driven over any roads in that part of the County coming within the urban area of Christchurch as defined from time to time in the Canterbury Regional Planning Scheme.
b) The driver of any stock on any road shall where reasonably necessary to allow any vehicle to proceed along such road take all practicable steps at the request of the driver of the vehicle to drive such stock so as to allow a way for such vehicle to pass them.
4. FOOTPATHS, CHANNEL CROSSING ETC
a) No person shall ride, drive or propel any stock or vehicle
 - i) along any footpath, channel or gutter or
 - ii) across any footpath, channel or gutter, except at a walking pace at a properly constructed crossing made and maintained as herein provided.

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- b) The owner or occupier of any land or premises who may require access to such land or premises for stock or vehicles across any footpath, side channel or drain shall at his own cost, subject to the control, inspection and satisfaction of the Council provide and construct a crossing for the purpose.
- c) Every footpath crossing shall be constructed of asphalt, concrete or other material approved by the Engineer and shall be maintained in good order and condition by such owner or occupier to the satisfaction of the Council.
- d) Every channel or drain crossing shall be constructed of concrete where such channel or drain is constructed of concrete and of earthenware or concrete pipes where such channel or drain is not constructed of concrete unless otherwise approved by the Engineer.
- e) Every crossing over any side channel or footpath shall be repaired and maintained by the owner or occupier of the premises to which the same may lead, and to the satisfaction of the authorised officer.
- f) Any person who desires to make a temporary crossing over any footpath, side channel or drain for building or other purposes at other than a properly constructed crossing, shall make application to the Council for a permit. For every such permit granted, the prescribed fee shall be payable.
- g) Every owner or occupier who neglects to comply with the provisions of this section shall be guilty of an offence. If any damage or injury is done to any footpath, channel or drain by reason of such neglect, it shall be lawful for the Council to repair such damage or injury and recover the cost of such repairs from such owner or occupier.

5. OPENING FOOTPATHS AND ROADS

- a) No person shall dig up, remove or alter in any way the soil or surface of any footpath or road, or make any excavation for the laying or repairing of any gas, water or drain pipes or the like, without the permission of the Council first obtained.
- b) Any person desiring to obtain a permit under this section to open up any footpath or road must first make application to the Council stating the nature of the work to be undertaken and, if it is intended to extend such work to any land or building, the name of the owner and occupier of such land or building and shall pay to the Council for such permit, such amount as may from time to time be prescribed by resolution of the Council.

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c) When any person, pursuant to a permit issued under this section, opens up any footpath or road he shall, with all reasonable speed, complete the work for which such excavation is made and fill in and consolidate the ground to the original surface level and remove any rubbish or spoil occasioned thereby and shall at all times whilst such footpath or road shall be so opened up, cause same to be fenced and guarded and shall cause a sufficient light for the warning of traffic to be set up and maintained against or near such excavation, every night from sunset to sunrise, until such time as the excavation is filled in as hereinbefore provided. He shall upon completion of such work notify the Council that such work has been completed.

d) The work of restoring the surface of the footpath or road, so opened under such permit shall in all cases be carried out by the Council and there shall be paid to the Council therefore in addition to the fee payable for the said permit such amounts as may be determined by resolution of the Council from time to time.

6. DRAINS UNDER ROADS

No person shall construct any drain or lay pipes under any public place without the permission of the Council first being obtained. Every such drain shall be constructed of concrete, brick, stone, iron, concrete or earthenware pipes to the satisfaction of the authorised officer.

7. a) OBSTRUCTIONS

No person shall place any timber, bricks, shingle, stone or other material on any public place without having first obtained the permission of the Council. Any such material shall be adequately lighted at night. No vehicle, engine or machine shall be allowed to remain stationary on any road in such a position as to obstruct traffic thereon.

b) WASTE TAKERS

Waste taker bins and similar receptacles may only be placed on the road if the following conditions are complied with:-

- i) the bin or receptacle shall be positioned as far as practicable to the left of the road but free of any formed footpath to ensure the safe passage of vehicles and pedestrians.
- ii) the end of the bin or receptacle facing oncoming traffic shall be flagged with a clean white, or fluorescent red orange or yellow marker measuring not less than 600mm by 600mm displayed clear of but projecting no more than 200mm beyond the side of the bin or receptacle.

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- iii) unless hurdled off and properly lit to the satisfaction of the County Engineer, bins or receptacles may not be left on any road from half an hour after sunset and half an hour before sunrise the following day.

Where any waste-taker bin or similar receptacle is placed on the road and the above conditions have not been complied with, such bin or receptacle may be removed by the Council and the cost of removal recovered from the owner of the bin or receptacle.

8. SLEDGES

No person shall draw any sledge or any log, timber or other heavy material along any road.

9. IMMOBILISED VEHICLES

a) No person shall leave standing in any road or public place for the continuous period exceeding seventy-two hours any vehicle of any description which is mechanically immobilised without the consent of the Council or the County Engineer.

b) Any vehicle left standing in breach of this clause may be removed by the Council to such place as is nominated by the County Engineer.

c) Any vehicle removed as aforesaid may, if not claimed and all expenses of removal thereof paid by the owner within seven days of such removal, be sold in whatsoever manner the Council thinks fit and the expenses of removal and sale shall be a first charge on the proceeds of such sale. The balance of such proceeds shall unless claimed by the owner within six months of such sale, be deemed to be unclaimed and may be paid into the Council's General Account.

d) The Council shall not be liable for any loss or damage resulting from the removal or sale of any vehicle as aforesaid.

10. SALE OF VEHICLES

No person shall expose or display for sale any vehicle on any road without the prior written consent of the Council or contrary to the conditions of any such consent.

11. OBSTRUCTION OF TRAFFIC

Every person commits an offence who makes, does or suffers any act, matter or thing, either in any road or on land adjacent thereto whereby or in consequence whereof other persons may be caused or induced to collect or congregate in any road or

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public place so as to impede the traffic in such road or place, or cause an obstruction or impede or annoy, inconvenience or incommode persons passing.

12. FENCES TO BE LOWERED

Where in the opinion of the Council any fence hedge, trees or shrubs or other plants obstruct the view of or constitutes a danger to any persons riding or driving along any road at or near its intersection with any other road the Council may order the owner or occupier of the land upon which such fence hedge, trees, shrubs or other plants stand to lower, cut or trim them to a height of 1.2 metres to a distance of 10 metres from the intersection within the time stated in the order.

13. GRIPPERS NOT TO BE USED

No person shall on any road or public place use any grippers or any appliance of any description, whether attached to wheels or not, the use of which cuts up or otherwise damages or which may be cut up or otherwise damage any such road or public place.

14. NOTICE THAT BRIDGE OR ROAD UNSAFE

Where the Council shall by notice posted on or near any road, bridge or culvert under the care, control or management of the County Council, and advertised in a newspaper circulating in the district where such road, bridge or culvert is situated, declare any such road, bridge or culvert as the case may be:-

- a) To be closed as being unsafe to all traffic; or
- b) to be unsafe for traffic exceeding any weight specified in such notice.

No person shall while such notice remains posted on or near the same enter on, drive or take on or over such road, bridge or culvert, any vehicle or any vehicle of a greater weight than is specified in such notice as the case may be.

15. NO PERSON SHALL

REMOVE OR SOIL

- a) Without the written permission of the Council remove any soil, sand, gravel or other material from any road or public place within the County.

PLACING OF MATERIAL ON ROAD

- b) Stack, deposit or place on or on the side of any road or public place firewood, timber, stone, gravel, sand or any

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other material or substance unless such material or substance is:-

- i) adequately lighted during the hours of darkness.
- ii) removed within 48 hours of deposit
- iii) so deposited as not to interfere with normal road or footpath traffic or with the free flow of stormwater.
- iv) so deposited as not to cause damage to any Council installations and facilities.

UNPACK GOODS ON ROADS

c) Pack or unpack any goods on any footway, road, private road or public place provided that such goods may be unpacked on the outside of the footway, but the time of such unpacking must not exceed two hours.

OILING OF ROADS

d) Spray or otherwise place on any road any oil or other petroleum product unless such person shall make application to the County Engineer on the form provided by the Council for a permit, to carry out such oiling. Such permit, if granted, shall state such conditions as the County Engineer in his absolute discretion thinks fit to impose and it shall be an offence to carry out oiling contrary in any way to the conditions set out in the permit.

e) Place, stop or leave standing any vehicle, motor, motor cycle, tricycle, velocipede or other similar vehicles or machines on any road or public place unless the same is placed stopped or left standing as close to one side or other of such road or public place as practicable so as to leave the centre of the roadway as clear as possible for traffic.

16. NOTICE OF DAMAGE TO ROAD TO BE GIVEN TO COUNTY CLERK

The driver of any vehicle whether propelled by animal or mechanical power shall give immediate notice in writing to the County Clerk of any damage or injury done by such vehicle and any waggon or waggons, carriage or carriages attached thereto to any road or public place or to any fence, bridge, culvert, watercourse, drain, side ditch or other thing appertaining to any such road or public place, and if any such damage has rendered such road or public place or any of the above premises or appurtenances thereof respectively or any part or parts thereof respectively dangerous for traffic or to public safety, the driver of such vehicle as aforesaid place and maintain in such position and for such time as the Council or County Clerk or authorised official, as the case

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may be, shall direct such signals or other means of conveying information of such danger as shall be sufficient to give warning of the existence of such danger to all persons travelling along such road, or public place or bridge whether by day or by night, and in cases of emergency shall forthwith and without waiting for any such directions, place some sufficient signal or other means of conveying information of the danger.

17. DRAINAGE ON TO ROAD ETC., PROHIBITED

No person shall allow any sewage or household waste or impure matters to flow from any building or land in his occupation on to a road, reserve or public place or into any ditch or drain declared to be a public drain, or upon any adjacent land owned or occupied by any other person without the permission in writing of the Council.

18. PARKING OF VEHICLES, ETC.

It shall not be lawful to park any vehicle on any road or portion thereof referred to hereunder during the following times:-

a) EPSOM ROAD - west side from its junction with Racecourse Road for a distance of 180 metres, on any day on which a race meeting is being held at the Riccarton Racecourse.

b) RACECOURSE ROAD - both sides from its junction with Yaldhurst Road to its junction with the intersection of the southern end of O'Briens Road on any day on which a race meeting is being held at the Riccarton Racecourse.

c) O'BRIENS ROAD - south-west side from its northern intersection with Racecourse Road on any day on which a race meeting is being held at the Riccarton Racecourse.

d) ON ANY OTHER ROAD or portion thereof that may hereafter be defined by resolution of the Council and which may be indicated by the erection of noticeboards notifying that parking is prohibited.

e) The Council may by marking or sign on the roadway or traffic sign, notice or device maintained in a conspicuous position in or on any road indicate the position in or on such road or portion thereof where and the conditions and restrictions under which vehicles shall or shall not be allowed to stop or for any period stand or park, whether attended or unattended.

f) The indications given by marking or sign on the roadway or traffic sign, notice or device shall apply in respect of so much of the adjacent or affected road as is indicated thereby, or where no such indication is given, then in respect

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of so much of the adjacent or affected road as lies between the road corners next on each side of such sign and any such indications may be from time to time, established, maintained, supplemented, altered or removed and while maintained shall be deemed to apply to the vehicles defined.

g) No person shall stop or for any period stand or park any vehicle in any road or portions thereof in respect of which such indications are so given, save in compliance with such indications.

h) Every person who parks in contravention of this bylaw commits an offence and is liable to the penalties and procedures provided in the Transport Act 1962 and/or Regulations thereunder.

19. KERBSIDE PETROL PUMPS

No person shall install a kerbside petrol pump unless having made an application to the County Clerk and obtained a permit to erect such pump. All such permits shall be issued subject to the following conditions:-

a) All permits issued to be during the pleasure of the Council and may be withdrawn at any time on one month's notice being served upon the grantee, when any construction shall be removed and path and kerb made good by the grantee.

b) Applications for permits must be accompanied by a plan showing the position of the proposed pump together with the prescribed fee to cover the cost of the inspection.

c) Each application will be considered upon its merits and may be granted or declined as the Council or its Inspector thinks fit.

d) All pumps installed shall comply with the provisions of "The Explosives Act 1957" and the Canterbury Fire Underwriters' Association's rules.

e) No pump shall be installed within 20 metres of a street corner or within 20 metres of a bus stop.

f) All tanks unless otherwise specially permitted to be on private property.

g) Kerbside fill boxes may be allowed and shall be constructed flush with the surface of the footpath and immediately alongside the kerb.

h) No filling hose shall be permitted to cross a footpath.

4/11/13

B

SECTION 3

- 25 -

- i) All work in connection with the erection of pumps or incidental thereto, shall be carried out in a workmanlike manner to the satisfaction of the Council's Inspector and at the cost of the grantee.
- j) Pumps to be filled on a solid concrete base which shall extend at least 150mm beyond the base of the pump standard.
- k) All delivery, suction or vent pipes shall be placed at least 150mm below the surface of the footpath.
- l) Wires for electrical lighting shall be of regulation height if carried overhead, and if underground shall be in galvanised pipe at least 150mm below the surface of the road.
- m) All permits granted shall (unless otherwise withdrawn) expire at the 31st March in each year.
- n) There shall be paid to the Council the prescribed fees for annual licences in respect of kerbside pumps, fill boxes or tanks under a footpath.

gyp B.H.

ELLESMERE COUNTY COUNCIL

BY-LAW

That in exercise of the powers vested in it by the 'Transport Act, 1962,' the 'Counties Act, 1956,' and the 'Local Government Act, 1974,' and all other powers it thereunto enabling, the Ellesmere County Council makes and ordains this By-Law.

1. Short Title

This By-Law may be cited as the Ellesmere County By-Law No. 1, 1979, 'The Limiting of Parking in Leeston Township'. This By-Law shall come into effect on the 1st day of October, 1979.

2. Interpretation

The expression 'vehicle' when used herein shall have the same meaning as prescribed to it in S2 of the Transport Act, 1962.

3. Limitation on Period of Parking in 'Traffic Area'

No person between the hours of 8.30 a.m. and 5.00 p.m. on weekdays except:

- (a) Fridays and on Fridays between the hours of 9.00 a.m. and 9.00 p.m.;
 - (b) and public holidays;
- shall leave or permit any vehicle (other than a cycle or motor cycle) to remain in any one place in the 'traffic area' as defined in the schedule to this By-Law for a longer period than 120 minutes.

4. Infractions Offences

- (a) Every person commits an offence who does any action in contravention of or fails to comply with any provision of this By-Law.
- (b) Every person who commits an offence under this By-Law shall be liable to a fine not exceeding \$200.00.

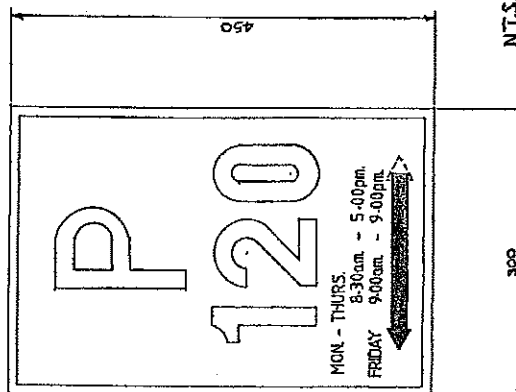
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Schedule

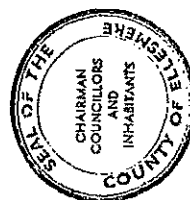
The 'Traffic area' referred to in Clause 3 of this By-Law shall be as indicated by the signs prescribed below, such area being High Street from its intersection with Market Street to its intersection with Gallipoli Street.

The prescribed sign shall be as follows:



The Common Seal of the County of Ellesmere was affixed to this Special Order and By-Law on the 17th day of September 1979, pursuant to a resolution of the Ellesmere County Council in the presence of:

[Signature] COUNTY CHAIRMAN.
[Signature] DEPUTY CHAIRMAN.
[Signature] COUNTY CLERK.



THE ELLESMERE COUNTY COUNCIL BYLAW 1985
TRAFFIC AND PARKING

In pursuance and exercise of the powers vested in it by the Local Government Act 1974, the Transport Act 1962, and of all other powers it thereunto enabling the Ellesmere County Council hereby makes and ordains this bylaw.

1. SHORT TITLE AND COMMENCEMENT

This bylaw may be cited as the Ellesmere County Council Bylaw No. (1985) Traffic and Parking. This bylaw shall be read in conjunction with the Local Government Act 1974, the Transport Act 1962 and the Regulations for the time being in force pursuant to the Transport Act 1962.

This bylaw shall come into force on the first day of November, 1985.

2. DEFINITIONS

- Grass Berm - is that area of footpath which is laid out in grass.
- Grass Verge - is that area of public street excluding the footpath which is laid out in grass.
- Parking - means in relation to any portion of a road the stopping or standing of a vehicle on that portion of road; and park and parked have corresponding meanings.
- Road - includes a street and also includes any place to which the public have access, whether as of right or not, and also includes all off street car parks, bridges, culverts, ferries and ferds forming part of any road, street or other place as aforesaid.
- Street - means all that land laid out by the Council as public street and also that land vested in the Council as public street.

3. VEHICLES ON GRASS BERMS

- (1) No person shall ride, drive, lead, impel or wheel any vehicle or horse along or across any grass berm in any street.
- (2) No person shall stop, stand or park any vehicle on any grass berm laid out in any street.

4. VEHICLES ON GRASS VERGES

- (1) No person shall ride, drive, lead, impel or wheel any horse or vehicle along or across any grass verge in any street.
- (2) No person shall stop, stand or park any vehicle on any grass verge laid out in any street unless it is in the interests of traffic safety to do so or it is the only reasonable or practicable place to park that vehicle having regard to traffic conditions existing at that time.

APC
PJW
APC

5. STOPPING, STANDING AND PARKING OF VEHICLES

- (1) The Council may from time to time by resolution impose parking, standing or stopping restrictions on any road or other area controlled by the Council whether by way of time restriction, a restriction to a specified class, classes or description of vehicle, a total prohibition or any combination of these.
- (2) The Council shall by prescribed markings, signs, notices or devices erected or placed in a conspicuous position in or on any road or other area controlled by it, indicate where on the road, other area or portion thereof, the stopping, standing or parking of any vehicle, whether attended or unattended, is prohibited or restricted.
- (3) Any of the signs, markings, notices or devices referred to may from time to time be supplemented, altered or removed, but while maintained, shall apply to all vehicles other than those specifically excluded on the sign, marking, notice or device.

6. RIGHTS OF WAY

No person shall stop, stand or park any vehicle in any right of way which is vested in or owned by the Council. Traffic signs or markings to this effect shall be erected in every right of way vested in or owned by the Council.

7. ENFORCEMENT OFFICERS

The enforcement of the provisions of this bylaw shall be carried out by either Traffic Officers, on behalf of the Council, or, where appropriate, by Inspectors appointed by the Council.

8. OFFENCES

Every person commits an offence against this bylaw who:

- (1) Fails to comply in all respects with any prohibition or restriction or direction or requirement indicated by the lines, domes, zones, markings, traffic signs, or other signs and notices, laid down, placed, or made, or erected, in or upon any road or public place in the County pursuant to any provision of this bylaw;
- (2) Fails to comply with any condition, duty or obligation imposed by this bylaw.

9. PENALTIES

Subject to any penalty provided by any other clause of this bylaw every person who commits an offence against this bylaw shall be liable to a fine not exceeding \$200.00.

10. DEFENCES

It shall be a defence to any person charged with a breach of any parking provision if he or she proves:

- (1) That the act complained of was done reasonably in circumstances of traffic emergency or in compliance with the directions of a Traffic Officer, Police Officer, traffic control signal or traffic sign, or in the case of an act done by a Traffic Officer or Police Officer, was necessary in the execution of his duty.
- (2) (a) That the vehicle was at the time of the act complained of actually engaged in a public work on the road; and
(b) That the vehicle was being used on the road with due consideration for other road users; and
(c) That the act complained of was reasonably necessary for the purposes of that work; and
(d) That he or she took all reasonable care to prevent the occurrence of any accident, mishap, collision, or damage or any injury to or interference with any person, animal or property arising by reason of the act.
- (3) That the act complained of was necessary for the loading or unloading of the vehicle in the course of trade, and was done with due consideration to the safety and convenience of other road users, and either:
(a) That alternative access for the purpose of loading or unloading the vehicle was not available; or
(b) That where such access was available, the circumstances existing at the time were such that it was unreasonable to require such access to be used.

11. EXEMPTED VEHICLES

This bylaw shall not apply to the following classes of vehicles:

- (1) A vehicle used as an ambulance and being at the time used an ambulance service.

Handwritten signature and initials: P.A. and S.S.

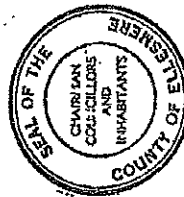
-4-

- (2) A vehicle being used by the New Zealand Fire Service to answer a request for an emergency service.

The Special Resolution to make this bylaw was passed by the Ellesmere County Council at a Special Meeting of the said Council held on the Monday 23rd September, 1985 which resolution was confirmed at a subsequent meeting of the Council held on the Monday 21st October, 1985.

THE COMMON SEAL of the
ELLESMERE COUNTY COUNCIL
was affixed in accordance
with the Special Order
made in that behalf by
the said Council on the

21st October 1985



W. J. Walker
COUNTY CHAIRMAN.

P. Abbott
DEPUTY CHAIRMAN.

M. Robertson
COUNTY CLERK.

New Rule 10/26
Stopping Standing & Parking
By Law

In pursuance of the powers vested in it by the Counties Act 1956, the Transport Act 1962, and of all other powers it thereunto enabling, the Malvern County Council acting on behalf of the Chairman, Councillors and Inhabitants of the County of Malvern MAKES AND ORDAINS THIS BY-LAW which shall be read in conjunction with the Counties Act 1956, the Transport Act 1962 and the Regulations for the time being in force pursuant to the Transport Act 1962:

PART I

SHORT TITLE AND COMMENCEMENT

This By-Law may be cited as the Malvern County Council By-Law No. 4 1978 and this By-Law shall come into force on the 1st day of January 1979.

PART II

STOPPING, STANDING AND PARKING OF VEHICLES

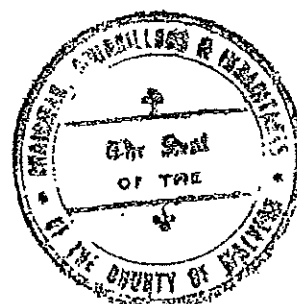
- (1) The Council may from time to time by Resolution impose parking, standing and stopping restrictions on any road or other area under its control whether by way of time restriction, a restriction as to a specified class or description of vehicle, a total prohibition, or any combination of these.
- (2) The Council shall by marking or by sign on the roadway, or traffic sign, notice or device erected or placed in a conspicuous position in or on any road or reserve, indicate where on the road, or area or portion thereof, the stopping, standing or parking of any vehicle, whether attended or unattended, is prohibited or restricted.
- (3) Any of the signs, marking, notices or devices hereinbefore referred to may from time to time be supplemented, altered or removed and while maintained shall be deemed to apply to all vehicles other than those specifically excluded on the sign, marking, notice or device.

The foregoing By-Law was made by Special Order of the Malvern County Council by resolution passed at a meeting of the Council on 13th October 1978 and being duly notified in accordance with the provisions of the Counties Act 1956, was confirmed at a subsequent meeting of the Council on the 8th December 1978.

The Common Seal of the Malvern County)
Council was hereto affixed in the)
presence of:-)

[Signature] Chairman

[Signature] County Clerk



**SELWYN DISTRICT COUNCIL KILDARE TERRACE
ONE WAY TRAFFIC BYLAW 2008**

1. TITLE

- 1.1 This Bylaw is made by the Selwyn District Council pursuant to the powers and authority vested in the Council by the Local Government Act 2002 and Section 72(1) (ia) of the Transport Act 1962. This bylaw shall be known as the Kildare Terrace One Way Traffic Bylaw 2008.

2. APPLICATION

- 2.1 This bylaw applies on that part of Kildare Terrace, Lincoln between Gerald Street and South Belt.

3. DATE OF COMMENCEMENT

- 3.1 This Bylaw comes into force on 1 July 2008.

4. OBJECTIVES

- 4.1 To ensure the safe and efficient flow of traffic on Kildare Terrace and the adjoining roads.

5. DEFINITION

- 5.1 References to a repealed enactment include its replacement.

- 5.2 In this bylaw, except where inconsistent with the context:

"Council" means Selwyn District Council or any officer authorised to exercise the authority of the Council.

"Traffic control device" has the same meaning as in section 2(1) of the Land Transport Act 1998.

"Vehicle" has the same meaning as in section 2(1) of the Land Transport Act 1998.

6. ONE WAY TRAFFIC

- 6.1 No person may drive, ride, direct or otherwise cause or allow any vehicle to travel in a northerly direction on the part of Kildare Terrace, Lincoln that is located between Gerald Street and South Belt.
- 6.2 The restriction on the direction of travel in 6.1 is indicated and controlled by Traffic Control Devices.

Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008

7. OFFENCES AND PENALTIES

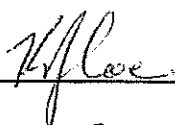
7.1 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$1,500.00.

8. REPEALS

8.1 The Selwyn District Council Traffic Bylaw No.1 2000 is hereby repealed.

The **COMMON SEAL** of the
SELWYN DISTRICT COUNCIL
was hereunto affixed, in accordance
with the Special Order made by the
Council on 11th June 2008
in the presence of:



 Mayor

 Chief Executive

SELWYN DISTRICT COUNCIL

**TRAFFIC AND PARKING
BYLAW**

~~ADOPTED~~ BY COUNCIL

**THE SELWYN DISTRICT COUNCIL BYLAW NO. 1 1995
TRAFFIC AND PARKING**

In pursuance and exercise of the powers vested in it by the Local Government Act 1974, the Transport Act 1962, and of all other powers it thereunto enabling the Selwyn District Council hereby makes and ordains this bylaw.

1. SHORT TITLE AND COMMENCEMENT

This bylaw may be cited as the Selwyn District Council Bylaw No. 1 1995 Traffic and Parking. This bylaw shall be read in conjunction with the Local Government Act 1974, the Transport Act 1962 and the Regulations for the time being in force pursuant to the Transport Act 1962.

This bylaw shall come into force on the first day of July 1995.

2. DEFINITIONS

Grass Berm - is that area of footpath which is laid out in grass.

Grass Verge - is that area of public street excluding the footpath which is laid out in grass.

Parking - means in relation to any portion of a road the stopping or standing of a vehicle on that portion of road; and park and parked have corresponding meanings.

Road - includes a street and also includes any place to which the public have access, whether as of right or not, and also includes all off street car parks, bridges, culverts, ferries and fords forming part of any road, street or other place as aforesaid.

Street - means all that land laid out by the Council as public street and also that land vested in the Council as public street.

3. VEHICLES ON GRASS BERMS

(1) No person shall ride, drive, lead, impel or wheel any vehicle or horse along or across any grass berm in any street.

(2) No person shall stop, stand or park any vehicle on any grass berm laid out in any street.

4. VEHICLES ON GRASS VERGES

(1) No person shall ride, drive, lead, impel or wheel any horse or vehicle along or across any grass verge in any street.

- (2) No person shall stop, stand or park any vehicle on any grass verge laid out in any street unless it is in the interests of traffic safety to do so or it is the only reasonable or practicable place to park that vehicle having regard to traffic conditions existing at that time.

5. STOPPING, STANDING AND PARKING OF VEHICLES

- (1) The Council may from time to time by resolution impose parking, standing or stopping restrictions on any road or other area controlled by the Council whether by way of time restriction, a restriction to a specified class, classes or description of vehicle, a total prohibition or any combination of these.
- (2) The Council shall by prescribed markings, signs, notices or devices erected or placed in a conspicuous position in or on any road or other area controlled by it, indicate where on the road, other area or portion thereof, the stopping, standing or parking of any vehicle, whether attended or unattended, is prohibited or restricted.
- (3) Any of the signs, markings, notices or devices referred to may from time to time be supplemented, altered or removed, but while maintained, shall apply to all vehicles other than those specifically excluded on the sign, marking, notice or device.

6. RIGHTS OF WAY

No person shall stop, stand or park any vehicle in any right of way which is vested in or owned by the Council. Traffic signs or markings to this effect shall be erected in every right of way vested in or owned by the Council.

7. ERECTION OF "GIVE WAY" OR "STOP" SIGNS AT ROAD OR STREET INTERSECTIONS

The Council may from time to time by resolution authorise the erection or removal of Give Way or Stop signs at any road or street intersection under its control within the District.

8. ENFORCEMENT OFFICERS

The enforcement of the provisions of this bylaw shall be carried out by either Police or Traffic Officers, on behalf of the Council, or, where appropriate, by Inspectors appointed by the Council.

9. OFFENCES

Every person commits an offence against this bylaw who:

- (1) Fails to comply in all respects with any prohibition or restriction or direction or requirement indicated by the lines, domes, zones, markings, traffic signs, or other signs and notices, laid down, placed, or made, or erected, in or upon any road or public place in the District pursuant to any provision of this bylaw;

Provided that this sub-clause shall be subject to any clause of this bylaw which deals with the directional flow or movement of any particular kind of traffic or of any particular kind or kinds of animals, vehicles in any particular area, road or public place; or

- (2) Fails to comply with any condition, duty or obligation imposed by this bylaw.

10. PENALTIES

Subject to any penalty provided by any other clause of this bylaw every person who commits an offence against this bylaw shall be liable to a fine not exceeding \$200.00.

11. DEFENCES

It shall be a defence to any person charged with a breach of any parking provision if he or she proves:

- (1) That the act complained of was done reasonably in circumstances of traffic emergency or in compliance with the directions of a Traffic Officer, Police Officer, traffic control signal or traffic sign, or in the case of an act done by a Traffic Officer or Police Officer, was necessary in the execution of his duty.
- (2)
 - (a) That the vehicle was at the time of the act complained of actually engaged in a public work on the road; and
 - (b) That the vehicle was being used on the road with due consideration for other road users; and
 - (c) That the act complained of was reasonably necessary for the purposes of that work; and
 - (d) That he or she took all reasonable care to prevent the occurrence of any accident, mishap, collision, or damage or any injury to or interference with any person, animal or property arising by reason of the act.
- (3) That the act complained of was necessary for the loading or unloading of the vehicle in the course of trade, and was done with due consideration to the safety and convenience of other road users, and either:

- (a) That alternative access for the purpose of loading or unloading the vehicle was not available; or
- (b) That where such access was available, the circumstances existing at the time were such that it was unreasonable to require such access to be used.

12. EXEMPTED VEHICLES

This bylaw shall not apply to the following classes of vehicles:

- (1) A vehicle used as an ambulance and being at the time used on ambulance service.
- (2) A vehicle being used by the New Zealand Fire Service or New Zealand Police to answer a request for an emergency service.

13. SCHEDULES

The first schedule shall contain a record of all parking, stopping or standing restrictions imposed by the Council by resolution in terms of Section 5(1) of this Bylaw. The second schedule shall contain a record of the erection of all Give Way or Stop signs authorised to be erected by the Council in terms of Section 7 of this Bylaw.

14. REVOCATION

The following Bylaws or sections of Bylaws are hereby revoked on the coming into force of this Bylaw. All decisions made in terms of those Bylaws shall continue in force and be given the effect of having been made in terms of this Bylaw.

Ellesmere County Council

Limiting of Parking in Leeston Township Bylaw No. 1 1979 Traffic and Parking Bylaw 1985

Malvern County Council

Power to establish Parking Standing and Stopping Restrictions Bylaw No. 4 1978

Paparua County Council

Bylaw 1981 - Subsection 18 of Section 3 (Roads, Traffic etc.) relating to Parking of Vehicles etc.

The Special Resolution to make this bylaw was passed by the Selwyn District Council at a Special Meeting of the said Council held on the _____ which resolution was confirmed at a subsequent meeting of the Council held on the _____.

THE COMMON SEAL of the
SELWYN DISTRICT COUNCIL
was affixed in accordance
with the Special Order
made in that behalf by
the said Council on the
_____.

MAYOR

DEPUTY MAYOR

GENERAL MANAGER

APPENDIX TWO

PROPOSED SELWYN DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2009

SELWYN DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2009

1. TITLE

- 1.1 A Bylaw of the Selwyn District Council by way of Special Order pursuant to the provisions of the Local Government Act 1974 and the Local Government Act 2002, and all other Acts, powers and authorities enabling it to make a Bylaw to be known as the Selwyn District Council Traffic and Parking Bylaw 2009.

2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 1 July 2009.

3. APPLICATION

- 3.1 This Bylaw applies in relation to all roads in the Selwyn District other than those controlled by other road controlling authorities in the district, unless the Council and the other road controlling authority have entered into an agreement providing that this Bylaw applies to those roads.

- 3.2 Compliance with other Acts

Nothing in this Bylaw derogates from any of the provisions of the Land Transport Act 1998, the Local Government Act 1974, the Local Government Act 2002, the Government Roading Powers Act 1989, and their regulations or subsequent amendments or any other relevant statutory or regulatory requirements. In the event of any inconsistency between this Bylaw and any legislation the provisions in the relevant legislation apply.

4. DEFINITIONS

References to a repealed enactment include its replacement.

For the purpose of this Bylaw, unless the context otherwise requires:

"Authorised Officer" means a person appointed by the Council to perform duties required under this Bylaw.

"Carriageway" means the part of a road sealed or unsealed and including any shoulder areas, where a normal wheeled vehicle can traverse. Two carriageways are deemed to exist where the carriageways are divided longitudinally by a physical island, median or barrier for a distance in length greater than 300m.

"Council" means the Selwyn District Council or any officer authorised to exercise the authority of the Council, or its agent.

"Cycle" means a vehicle that has at least two wheels and that is designed primarily to be propelled by muscular energy of the rider.

"Cycle Lane" means a longitudinal strip within a road designed for the passage of cycles.

“Emergency Vehicle” has the same meaning as in the Land Transport (Road User) Rule 2004.

“Footpath” means a path or way principally designed for, and used by, pedestrians and includes a footbridge.

“Grass Berm” means the area behind the edge of carriageway which is laid out in grass.

“Heavy Motor Vehicle” means a motor vehicle having a gross laden weight exceeding 3500 kg but does not include a motorcar that is not used, kept, or available for the carriage of passengers for hire or reward.

“Immobilised Vehicle” means any vehicle that cannot be moved on its own because of a mechanical fault, or a missing wheel or wheels.

“Mobility Parking Space” means a parking space set aside for use by people who hold an Operation Mobility Permit.

“Motor Home” means any motorised vehicle designed to be used for human habitation.

“Motor Vehicle” means a vehicle drawn or propelled by mechanical power and includes a trailer.

“Operation Mobility Permit” means a permit issued by CCS Disability Action Incorporated to persons with physical disabilities.

“Parking” has the same meaning as in the Land Transport (Road User) Rule 2004.

“Parking Space” means a portion of a road that has been marked out specifically for parking a vehicle.

“Person” means a natural person, corporation or a body of persons whether corporate or otherwise.

“Residential” means those areas classified as living zones in the Selwyn District Plan.

“Road” has the same meaning as in the Land Transport Act 1998.

“Road Controlling Authority” has the same meaning as in the Land Transport Act 1998.

“Road Reserve” means the area between the legal boundaries, usually fence line to fence line and including any safety run off areas, which is dedicated to allow the passage of road users. This also includes a 6m airspace directly above the road surface.

“Road User” means any user of the road, including motor vehicle drivers, motorcyclists, pedestrians and cyclists.

“Road Verge” means that part of a road which is not the carriageway.

“Special Vehicle Lane” means a lane or road defined by signs or markings and restricted to a specified class or classes of vehicle; and includes a bus lane, a cycle lane, and a lane or road that may not be used by heavy motor vehicles.

“Standing” means temporarily stopping a vehicle which remains attended by a driver, for the purpose of picking up or setting down goods or passengers, or, in the case of a taxi, while waiting for hire in designated areas.

“Temporary Road Closure” has the same meaning as set out in the Local Government Act 1974.

“Traffic Control Device” includes any

- (a) Sign, signal, or notice; or
 - (b) Traffic calming device; or
 - (c) Marking or road surface treatment;
- used on a road for the purpose of traffic control.

“Traffic Management Plan” has the same meaning as in the New Zealand Transport Agency Code of Practice for Temporary Management (CoPTTM).

“Traffic Management Supervisor” has the same meaning as in the New Zealand Transport Agency Code of Practice for Temporary Management (CoPTTM).

“Traffic Sign” has the same meaning as in the Land Transport Rule – Traffic Control Devices 2004.

“Vehicle Crossing” includes any formed vehicle entrance or exit point from any site on to any road, and includes that part of the road and road verge across which the vehicle access is obtained and any culvert, bridge or kerbing within the road.

5. PARKING

5.1 Standing, Stopping and Parking Restrictions

5.1.1 The Council may from time to time by resolution impose parking, standing or stopping restrictions on any road. Such restriction may include total prohibition on standing, stopping or parking, a time restriction, or restriction to a specified class of vehicle, or class of road user, or purpose, or any combination of such restrictions.

5.1.2 A prohibition or restriction imposed by the Council on the stopping, standing or parking of any vehicle applies whenever traffic control devices are placed in a conspicuous position indicating the prohibition or restriction.

5.1.3 Traffic control devices indicating prohibitions or restrictions may from time to time be supplemented, altered or removed by the Council.

5.2 Temporary Discontinuance of a Parking Space

5.2.1 The Council may:

- (a) temporarily prohibit parking in any parking space; or

- (b) temporarily restrict parking in any parking space to use by a specified vehicle, class of vehicle or road user.

5.2.2 When a temporary prohibition or restriction is imposed in any parking space and indicated by a sign reading "No Stopping", no person may remove that sign, or stop, stand or park a vehicle in that parking space unless permitted to do so by an authorised officer.

5.3 Heavy Vehicles Parking in a Residential Area

5.3.1 The Council may by resolution specify any road or part of a road which may not be used by heavy motor vehicles for the purposes of stopping, standing, or parking during any specified time period.

5.3.2 Whenever a sign or signs indicate a restriction on the use of a road specified by the Council, no person may use a road or part of a road in contravention of a resolution made under this Bylaw.

5.3.3 Nothing in Clause 5.3.1 applies to a heavy motor vehicle:

- (a) being loaded or unloaded in the course of trade; or
- (b) carrying out work as a network utility operator.

5.4 Parking on Grass Berms or Road Verges

5.4.1 No person may stop, stand or park a motor vehicle on a grass berm or verge where the Council has placed signs to indicate no stopping, standing or parking.

5.4.2 If, as a result of stopping, standing or parking on the grass berm or road verge, damage is caused to the grass berm or road verge the person in charge of the vehicle causing that damage may be required to pay for repair of the damage to the satisfaction of the Council.

5.5 Parking on Footpaths

5.5.1 No person may stop, stand or park any vehicle over a footpath.

5.5.2 If, as a result of stopping, standing, parking or traversing where there is no vehicle crossing over a footpath, damage is caused to the footpath the person in charge of the vehicle causing that damage may be required to pay for repair of the damage to the satisfaction of the Council.

5.6 Sale of Vehicles

5.6.1 No person may display for sale any vehicle on any road except with the consent of the Council.

6. TRAFFIC MOVEMENT RESTRICTIONS AND DAMAGE TO ROADS

6.1 One Way Roads

- 6.1.1 Vehicles travelling on a road or part of a road listed in Schedule One of this Bylaw may travel only in the direction specified in that schedule and indicated by traffic control devices placed on that road.

6.2 Roads or Traffic Lanes Restricted to Specific Classes of Vehicles

- 6.2.1 The roads or traffic lanes described in Schedule Two of this Bylaw are special vehicle lanes reserved for the class of vehicle listed in that schedule.
- 6.2.2 No person may drive a vehicle on a special vehicle lane unless the vehicle is the class of vehicle for which the lane is reserved, except in any of the circumstances listed in Rules 2.3(3) and 2.3(4) of the Land Transport (Road User) Rule 2004.

6.3 Turning Restrictions

- 6.3.1 The Council may by resolution specify a turning restriction on any road or part of a road where:
- (a) no vehicle may turn from facing or travelling in one direction to facing or travelling in the opposite direction, (commonly known as "u-turns");
 - (b) no vehicle or specified class of vehicle may turn right or turn left or proceed in any other direction.
- 6.3.2 The Council may by resolution subsequently amend or revoke any resolution made under Clause 6.3.1.
- 6.3.3 No person may drive a vehicle on a road in a manner that contravenes a turning restriction made under this Bylaw.

6.4 Prohibited Times on Roads

- 6.4.1 No person may use, or permit to be used, a motor vehicle under a gross laden weight of 3500kg between the hours of 9pm and 5am on any road described in Schedule Three whenever traffic control devices erected on that road by the Council indicate that such prohibition is in force.
- 6.4.2 The Council may, by resolution, add to or delete roads from Schedule Three.
- 6.4.3 Nothing in 6.4.1 above applies to:
- (a) The owner or occupier of any land having a frontage to the road described in Schedule Three, or to his or her bona fide visitors;

- (b) Any trade or service vehicle for the provision or maintenance of a utility above or below the road or above or below the land having a frontage to the road being used for genuine business purposes;
- (c) Any vehicle owned by the Council or its agent being used for genuine business purposes;
- (d) Any vehicle operated by a security service being used for genuine business purposes.

6.5 Material/Debris on Roads and Damage to Roads

- 6.5.1 No person may cause damage to the road including any associated signage, markings and related infrastructure.
- 6.5.2 Any person causing material or debris to be deposited on the road must remove it as soon as practicable.
- 6.5.3 The Council may, by written notice, require any person who has caused material or debris to be deposited on a road to remove that material or debris within 24 hours, or to repair any damage caused to the road within 48 hours.
- 6.5.4 Where the material or debris deposited on a road constitutes an immediate threat to the safety of road users or efficiency of the road the Council may require any person who has caused the material or debris to be deposited on a road to remove that material or debris immediately.
- 6.5.5 On failure to comply with notice given under Clause 6.5.3 or 6.5.4, the Council may undertake the work and recover all costs from that person.
- 6.5.6 Nothing in this Bylaw applies to faecal matter deposited on the road by stock which is regulated under the Selwyn District Council Stock Droving Bylaw.

7. EVENTS

7.1 Events Obstructing Traffic

- 7.1.1 No person may hold or organise an event which may:

- (a) obstruct pedestrian, cycle or vehicle movements; or
- (b) cause a hazard for pedestrians, cyclists and traffic; or
- (c) require a road to be closed temporarily,

unless the Council has approved the event and its associated traffic management plan.

- 7.1.2 The request for a temporary road closure for an event should be submitted to the Council at least 42 days prior to the date of the

intended event. The traffic management plan should be submitted to Council for approval at least five working days prior to the event.

7.1.3 An event not requiring a temporary road closure may still require a traffic management plan, which should be submitted to the Council for approval at least five working days prior to the event.

7.1.4 Nothing in 7.1 applies to a funeral procession or to any droving of animals which is regulated under the Selwyn District Council Stock Droving Bylaw.

8. OBSTRUCTIONS ON ROADS

8.1 Use of Construction Machinery or Equipment

8.1.1 Except in an emergency, no person may operate any construction machinery or equipment (for example a crane, mobile crane, concrete pump truck, concrete truck, excavator, mobile operator or drill rig) on or over a footpath or road in a manner that may obstruct or endanger pedestrian, cycle or vehicle movements or road users, without the prior written consent of the Council.

8.1.2 The request for a temporary road closure for the operation of machinery or equipment should be submitted to the Council at least 42 days prior to the date of the intended closure. The traffic management plan should be submitted to Council at least five working days prior to the event. A traffic management plan requiring a road to be temporarily closed should be submitted to the Council for approval at least five working days prior to the date of the intended closure.

8.1.3 When a temporary road closure is not required, a traffic management plan may be required and should be submitted to the Council for approval at least five days in advance of the intended works.

8.2 Placement of Object on a Road

8.2.1 No person may place an object not being a vehicle (such as a shipping container or other storage structure) on a road in a manner that may interfere with the use of that road, except with the prior written consent of the Council in accordance with any conditions imposed by the Council in granting that consent.

8.2.2 If an object is placed on the road in contravention of this Bylaw, the Council may:

- (a) remove it; or
- (b) place near it or affix to it any safety or warning device the Council considers necessary; and
- (c) recover from the owner the cost of removal of the original object or the placement of safety or warning devices.

- 8.2.3 Clause 8.2 does not apply to any object that may be placed on the road in a safe and considerate manner specifically for the purpose of Council refuse collection and recycling activities.

8.3 Motor Homes and Immobilised Vehicles

- 8.3.1 No person may leave a motor home or immobilised vehicle on a road or road verge for a continuous period exceeding seven days except with the prior written consent of the Council.
- 8.3.2 Where the motor home or immobilised vehicle on a road constitutes threat to the safety of road users or the efficiency of the road, the Council may require the owner of the motor home or immobilised vehicle to remove it immediately.
- 8.3.3 The Council may remove any motor home or immobilised vehicle left on a road or road verge for a continuous period exceeding 7 days.

8.4 Using the Road or Road Reserve for Storage

- 8.4.1 No person may leave a vehicle on a road or road verge for the purpose of storage or long term parking in connection with their trade or business except with the prior written consent of the Council.
- 8.4.2 No one may store any hay, straw, baleage or any other objects and material on any road, grass berm or road verge except with the prior written consent of the Council.

8.5 Working on Vehicles

- 8.5.1 No person may leave any vehicle on any road or road verge to carry out repairs unless those repairs are minor and urgent.

8.6 Removal of Vehicle or Any Other Object

- 8.6.1 The Council may remove from any road or road verge any vehicle, object, materials and obstructions which contravenes this Bylaw. The Council may recover from the person contravening this Bylaw all expenses incurred in connection with the removal of the offending vehicle, object, materials and obstructions.
- 8.6.2 The powers that may be exercised under this Bylaw are in addition to those provided in sections 356 and 356A of the Local Government Act 1974.

9. EXCAVATION WITHIN THE CARRIAGEWAY AND ROAD

- 9.1 No person may carry out excavation work on a carriageway or road reserve unless authorised to do so by the Council.

10. VEHICLE CROSSINGS

- 10.1 Vehicle access to a property from a road may only be by a vehicle crossing approved by the Council.
- 10.2 If in the opinion of the Council or an authorised officer, any vehicle crossing that is in a bad or unsafe state of repair or not constructed in accordance with the approval granted by the Council, the Council may by written notice require the owner or occupier of the land to which the crossing provides access, to repair, reconstruct or renew such crossing to the satisfaction of the Council or an authorised officer.
- 10.3 On failure to comply with the notice and time limit for compliance given under Clause 10.2 the Council may undertake the work and recover all costs from that person.

11. EXEMPTED VEHICLES

- 11.1 Nothing in this Bylaw applies to any emergency vehicle from being used in the course of duty.

12. OFFENCES AND PENALTIES

- 12.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$1,500.00.
- 12.2 Every person who breaches any of the parking provisions in Clause 5 commits an offence and is liable to the infringement fees in Schedule 1B of the Land Transport (Offences and Penalties) Regulations 1999.

13. REPEALS

- 13.1 The Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008, the Paparua County Bylaw 1981 Section 3 Roads, Traffic etc, the Ellesmere County Council Bylaw No.1 1979 the Limiting of Parking in Leeston Township, the Ellesmere County Council Bylaw 1985 Traffic and Parking and the Mairangi County Council Bylaw No 4 1978, are hereby repealed.

The COMMON SEAL of the
SELWYN DISTRICT COUNCIL
was hereunto affixed, in accordance
with the Special Order made by the
Council on _____
in the presence of: _____

Mayor

Chief Executive

**Schedule One
ONE WAY TRAFFIC**

Kildare Terrace	On the part of Kildare Terrace, Lincoln, between Gerald Street and South Belt traffic may travel in a southerly direction only.
Perthshire Crescent	On the part of Perthshire Crescent, Lincoln, between Perthshire Crescent and Southfield Drive traffic may travel in a southerly direction only
Kajens Court	On the part of Kajens Court, Lincoln, between Kajens Court and Ryelands Drive traffic may travel in a southerly direction only

Draft for Consultation (25 March 2009)

Schedule Two
ROADS OR TRAFFIC LANES RESTRICTED TO
SPECIFIC CLASSES OF VEHICLES

HEAVY TRAFFIC

High Street Leeston	No person may drive a heavy vehicle on High Street, Leeston
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CYCLE LANES

On the roads listed below, the lanes marked with the words "cycle lane" or a cycle symbol are restricted to use by cycles only

Road Name	From		To		Length
Springs Rd	1103	Blakes Rd	1940	Birchs Rd	837
Birchs Rd	0	Springs Rd	6262	James St	6262
James St	0	Birchs Rd	308	East Belt	308
East Belt	0	James St	359	Edward St	359
Gerald St	394	West Belt	1261	Springs Rd	867
Ellesmere Junction Rd	0	Springs Rd	917	End of Kerb and Channel	917

Note:

1. Refer to the Rail trail Bylaw which has its own provisions regarding cycle lanes.

Schedule Three
PROHIBITED TIMES ON ROADS

Location	Hours
Curraghs Road between Jones and Maddisons Roads	Monday to Sunday Between 9.00 pm and 5.00 am
Dawsons Road between Jones and Maddisons Roads ¹ .	Monday to Sunday Between 9.00 pm and 5.00 am
Curraghs Road between Jones Road and West Coast Road.	Monday to Sunday Between 9.00 pm and 5.00 am
Trents Road between Blakes and Shands Roads	Monday to Sunday Between 9.00 pm and 5.00 am
Izone Drive, Rolleston	Monday to Sunday Between 9.00 pm and 5.00 am

Note:

1. Shared district boundary road with Christchurch City Council.

Draft for Consultation (25 March 2009)

APPENDIX THREE

- Statement of Proposal
- Summary of Information



STATEMENT OF PROPOSAL FOR THE PROPOSED SELWYN DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2009 (This statement is made for the purposes of sections 83 and 86 of the Local Government Act 2002)

Nature of the Proposal:

This is a statement of proposal by the Selwyn District Council (The "Council") to review the current "Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008, the Paparua County Bylaw 1981 Section 3 Roads, Traffic etc, the Ellesmere County Council Bylaw No.1 1979 The Limiting of Parking in Leeston Township, the Ellesmere County Council Bylaw 1985 Traffic and Parking and the Malvern County Council Bylaw No 4 1978".

This review will result in the 2009 version becoming the new proposed Bylaw that will replace the current operative Bylaws.

Throughout this report, the process will be referred to as the review of the current Bylaws ("the current Bylaws").

Reasons for this Proposal:

To review, and update as necessary the current Bylaw(s) in accordance with the Local Government Act 2002, and appropriate community outcomes.

The proposed new Bylaw brings together and reviews the five sets of bylaws that are still operative.

Currently there are five sets of bylaws dealing with Traffic and Parking, one for Paparua, two for Ellesmere, one for Malvern and the Kildare Terrace One Way Traffic Bylaw 2008. Four of these Bylaws have not been reviewed since the earlier amalgamation of previous local authority areas to form the Selwyn District Council in 1989. One of the Bylaws was reviewed in 2008.

The Selwyn District Council Kildare Terrace One Way Traffic Bylaw 2008 that was reviewed and adopted by the Council in June 2008, but for completeness and consistency it has been incorporated into the proposed Traffic and Parking Bylaw 2009.

It is considered that the proposed draft **Selwyn District Council Traffic and Parking Bylaw 2009** ("the proposed new Bylaw") is the most appropriate form of Bylaw, and the Bylaw is consistent with the New Zealand Bill of Rights Act 1990.

The statutory requirements for introducing a Bylaw:

The proposed new Bylaw will apply in relation to all roads in the Selwyn District other than State Highways controlled by the New Zealand Transport Agency.

- **Appropriateness:**

The proposed new Bylaw brings together and reviews the five Bylaws that are still operative in the Selwyn District. The content of the five existing Bylaws form the foundation of the proposed new Selwyn District Council Traffic and Parking Bylaw 2009.

The proposed Bylaw will:

- regulate activities within the transport and roading activity in order to protect infrastructure and provide operational controls,
- set clear guidelines and provide information to the public and
- specify the offences and penalties for breaches of the Bylaw.

• **Options Available to Council:**

1. **Do Nothing** – The Council has responsibilities for the roading network and infrastructure as provided for within the Local Government Act 2002 and the Land Transport Act 1998. On this basis this option is not supported by the Council. The current Bylaws are outdated and are no longer suitable.
2. **Revoke the bylaw and rely on other methods (public education)** – This option is not seen as being practical as it would mean the Council would be relying on the co-operation of several different parties. Clear rules about what is permitted, with penalties, which can be enforced if those rules are broken are required. On this basis this option to rely on other methods is not supported.
3. **Proceed with the review** – The review of the current bylaws will ensure they are up to date with relevant transport legislation and rules and also management and operating best practices.

This Statement of Proposal has been prepared on the basis that Council wishes to proceed with Option 3: **Proceed with the review** to formulate a proposed new Bylaw.

Benefits/Costs:

- That the proposed new bylaw will operate under current legislation and management practices.
- The proposed new bylaw will continue to ensure the safe and efficient flow of traffic on roads managed by the Selwyn District (State Highways are controlled by the New Zealand Transport Agency).
- Define terms not previously made clear, and to bring further clarity to the proposed new bylaw by means of simplification where possible to make it easier to understand by the general public, and to assist Council staff in achieving compliance in a fair and straight forward manner.
- Correct minor errors, and other deficiencies and problems that have been identified during the course of application of the current Bylaws that has detracted from their original intent.
- The proposed new bylaw will align with current Council policies and best practices.
- In line with the provisions of the new Local Government Act 2002, the proposed new bylaw will utilise penalties for non-compliance of up to \$1,500.

Consultation:

The following groups and organisations (both internal and external stakeholders) will also be consulted on the proposed new Bylaw:

Council Elected Members
 Community Boards and Council Committees
 New Zealand Transport Agency
 New Zealand Police
 Te Taumutu Rununga
 Adjoining Local Authorities (Christchurch, Waimakariri, Ashburton)
 Environment Canterbury

Council officers have provided feedback on the direction of the Bylaw and the matters considered. The views of the public will be sought through the special consultative procedure.

Provide Maori the opportunity to contribute:

The Council has entered into discussions with the local Runanga in recognition of our special partnership with Maori.

NZ Bill of Rights:

Section 155(2) ((b) of the Local Government Act 2002 requires that any new Bylaw not be inconsistent with the NZ Bill of Rights Act 1990. Council have obtained legal advice to ensure that the proposed new Bylaw is consistent with the NZ Bill of Rights Act 1990.

The proposed Bylaw is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions and the final consideration being made by members of an elected Council.

The proposed timeline for the introduction of the proposed new Bylaw is:

Timeline	Selwyn District Council Traffic and Parking Bylaw 2009
25 March 2009 (Council meeting)	<ul style="list-style-type: none"> Adoption of the draft Selwyn District Council Traffic and Parking Bylaw 2009
4 April 2009 Bylaw advertised	<ul style="list-style-type: none"> Advertise for public submissions to the draft Selwyn District Council Traffic and Parking Bylaw 2009
4 May 2009 Submissions close	<ul style="list-style-type: none"> Written submissions close at 4:00pm at SDC service centres
1,3,4 June 2009 Submissions hearing (to be confirmed)	<ul style="list-style-type: none"> Hearings of submissions on the draft Selwyn District Council Traffic and Parking Bylaw 2009 by a subcommittee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
24 June 2009* (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 at its ordinary Council Meeting
27 June 2009	<ul style="list-style-type: none"> Public notification on the adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 by the Council and its commencement date
1 July 2009	<ul style="list-style-type: none"> Commencement date of new Selwyn District Council Traffic and Parking Bylaw 2009
8 July 2009* (Council Meeting)	<ul style="list-style-type: none"> <i>Adoption of the Selwyn District Council Traffic and Parking Bylaw 2009 by Council at its ordinary Council Meeting</i>

* It is expected that written submissions will be reviewed and heard if requested by an appointed subcommittee of Council staff and Councillors. From this process, amendments or changes to the draft bylaw can be incorporated for the consideration of Council to adopt the bylaw at its meeting of 24 June 2009. If it is the view of the subcommittee that the draft bylaw cannot be presented at that time for adoption or if there are further considerations identified by the Council at the meeting of 24 June 2009, this shall be reported back to Council including recommendations on how to proceed, or the final bylaw will be sent for adoption at the Council meeting of 8 July 2009.

Submissions:

Submissions are invited on the proposal to implement a new Bylaw to be called the "Selwyn District Council Traffic and Parking Bylaw 2009".

The proposed Bylaw is to be known as the **Selwyn District Council Traffic and Parking Bylaw 2009** ("the proposed new Bylaw").

At its meeting on 25 March 2009 the Council passed a resolution approving the proposed new Bylaw for the purposes of public consultation through the special consultative procedure prescribed in the Local Government Act 2002.

The proposed new Bylaw can be viewed (and is downloadable in PDF format) on our website www.selwyn.govt.nz. Hard copies are also available during ordinary office hours at the Selwyn District Council Service Centres in Darfield (Darfield Library, McMillan Street), Leeston (Leeston Library, High Street), Lincoln (Lincoln Service Centre, Gerald Street) and Rolleston (Norman Kirk Drive, Rolleston).

Copies can also be requested by phoning 347 2800 or 318 8338.

Submissions on this proposal may be made until **4:00pm, 4 May 2009**.

Submissions on this proposal can be made either via the online submission form on the Council website www.selwyn.govt.nz, or in writing. In order for a submission to be accepted it must state:

- your name, postal address, phone or fax and e-mail address;
- whether you support or oppose the proposal or particular aspects of it;
- your reasons;
- any changes that you wish us to make;
- whether you wish to speak at a hearing; and
- signed (if posted or faxed) and dated.

Submissions in writing shall be addressed to:

**The Bylaw Analyst
Proposed Traffic and Parking Bylaw 2009
Selwyn District Council
P O Box 90
ROLLESTON 7643**

Or similarly faxed to (03) 347 2799.

On receipt of your submission, Council will send an acknowledgement that your submission has been received.

Any person making a submission may request to be heard in person in support of their submission. If required, the **hearing will be held on 1, 3, 4 June 2009 starting at 10.30am** in the Rolleston Service Centre, Norman Kirk Drive, Rolleston. These details will be further confirmed in advance of any hearing as required.

For more information please contact Keri Harrison, Bylaw Analyst, 03 347 2800.

Related documents:

Proposed Selwyn District Council Traffic and Parking Bylaw 2009
Report to Council
Summary of Information



SUMMARY OF INFORMATION FOR THE PROPOSED SELWYN DISTRICT COUNCIL TRAFFIC AND PARKING BYLAW 2009 (This statement is made for the purposes of sections 83 and 86 of the Local Government Act 2002)

Summary of Information:

- The Council has prepared and adopted the proposed new Bylaw to be known as the "Selwyn District Council Traffic and Parking Bylaw 2009" for public consultation. The proposed new Bylaw was made under the Local Government Act 2002.
- It is considered that the proposed new Bylaw is the most appropriate form of Bylaw, and that the proposed new Bylaw is consistent with the New Zealand Bill of Rights Act 1990.

The proposed Bylaw will:

- regulate activities within the transport and roading activity in order to protect infrastructure and provide operational controls,
- set clear guidelines and provide information to the public and
- specify the offences and penalties for breaches of the Bylaw.

The proposed timeline for the introduction of the proposed new Bylaw is:

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Submissions on this proposal may be made until **4:00pm, 4 May 2009**.

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- your name, postal address, phone or fax and e-mail address;
- whether you support or oppose the proposal or particular aspects of it;
- your reasons;
- any changes that you wish us to make;
- whether you wish to speak at a hearing; and
- signed (if posted or faxed) and dated.

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For more information please contact Keri Harrison, Bylaw Analyst, 03 347 2800.

Related documents:

Proposed Selwyn District Council Traffic and Parking Bylaw 2009
Report to Council
Statement of Proposal

APPENDIX FOUR

COMMUNITY OUTCOMES

Community outcomes	The transportation activity contributes to the community outcome by:
Air, land, water and general environment to be kept in a healthy condition.	Providing an efficient and sustainable transportation system, including non-polluting transport option that contributes to the reductions of exhaust emissions and by installing and providing infrastructure in environmentally sensitive ways.
A safe place in which to live, work and play.	Designing, constructing, maintaining and upgrading roads, intersections and other transport facilities to industry standards and best practice where hazards have been identified and by providing warning, advisory and regulatory signs advising of hazards as well as educational initiatives to reduce the risk to people.
Effective and accessible transport system.	Designing, constructing, maintaining and upgrading the road and transport network to achieve a robust and flexible system for the movement of people and freight, including facilities for pedestrians, cyclists, public transport and other non-motor-vehicle-based road users.
A prosperous community.	Providing a transportation system that allows for the efficient movement of people, goods and services around the District.

APPENDIX FIVE

LEGAL OPINION – BUDDLE FINDLAY

BUDDLE FINDLAY

To
Selwyn District Council
P O Box 90
Rolleston 7643

For
Keri Harrison

From
Rachel Dunningham
David Montgomerie

By
Email: keri.harrison@selwyn.govt.nz

Date
12 March 2009

Dear Keri

Traffic and Parking Bylaw Penalties

1. You have asked us to provide an opinion on the level of penalties to be imposed in the Traffic and Parking Bylaw.
2. The reason for your request is that the Council is aware that the maximum penalty that could be imposed under the Local Government Act 2002 is \$20,000. Some members of the working group are concerned that imposing a fine in the bylaw which is less than the maximum would restrict the sentencing powers of the Courts and result in the Council's approach being viewed as weak, given that other councils have drafted bylaws which impose the maximum penalty. They want the maximum penalty to be available. The working group's concerns are particularly directed towards "boy racer" activity.
3. We have previously expressed an opinion that the imposition of the maximum penalty is without justification and could result in the bylaw being challenged on the basis of validity. Detailed reasons for this view are set out below, including comparisons with similar offences under the Land Transport Act 1998.

Local Government Act 2002 ("the Act")

4. Section 242 (4) of the Local Government Act states that where a person is convicted of an offence against a bylaw made under part 8 of the Act that person is liable to a fine not exceeding \$20,000. This is the maximum fine that can be imposed in such cases. When sentencing an offender the Courts are required to consider a number of factors including the culpability of the offender, the harm that has resulted and the level of penalty imposed in similar cases. The Court is unlikely to impose the maximum penalty unless the offending is exceptional. A recent sentencing case under the Health and Safety in Employment Act 1992 suggested that the starting point in sentencing should be fixed as a percentage of the maximum penalty, based on the offenders culpability. Given that the maximum penalty expressed in the Act is

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Clarendon Tower
78 Worcester Street
PO Box 322
Christchurch 8140
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Tel 64-3-379 1747
Fax 64-3-379 5659

AUCKLAND
PricewaterhouseCoopers Tower
188 Quay Street
PO Box 1433
Auckland 1140
New Zealand
DX CP24024

Tel 64-9-358 2555
Fax 64-9-358 2055

WELLINGTON
State Insurance Tower
1 Willis Street
PO Box 2694
Wellington 6140
New Zealand
DX SP20201

Tel 64-4-499 4242
Fax 64-4-499 4141

higher than that expressed under other similar acts this would result in the starting point and the sentence being higher simply on the basis of the maximum penalty being higher.

5. The \$20,000 maximum penalty applies to all bylaws made under part 8 of the Act. It may be the case that breaches of certain other bylaws might warrant the imposition of a \$20,000 fine. An example of this could be bylaws made under section 64 of the Health Act 1956.

The Bylaw and the Land Transport Act 1998

6. The Land Transport Act 1998 ("the Land Transport Act") sets out offences and penalties involving the use of roads and is the primary source of law relating to the use of roads. The Land Transport Act deals with offences which tend to contain some element of danger to other road users. Offences under the Land Transport Act are dealt with by the police. The Traffic and Parking Bylaw ("the bylaw") contains a number of offences, which are additional to those set out in the Land Transport Act and are predominantly minor in nature. The bylaw deals with offences where there is generally an element of nuisance rather than danger. The bylaw applies only to roads within the Selwyn District and is enforced by the Council's enforcement officers.
7. The provisions of the bylaw which are particularly relevant to "boy racer" activity are bylaws 6.5 and 7.1. Bylaw 6.5 allows the Council to restrict the use of certain roads between the hours of 9pm and 5am while bylaw 7.1 relates to events obstructing traffic.
8. In particular, bylaw 6.5 is intended to prevent late night street racing on streets which are particularly prone to such activity. Section 36A of the Land Transport Act has a similar purpose. Considering the two provisions it seems that section 36A is more likely to be effective at preventing street racing for the following reasons;
 - (a) Under section 36A it is an offence to operate a vehicle in race or with unnecessary speed or acceleration, to pour petrol, oil, diesel or other substances onto the road or to operate a vehicle so as to cause a sustained loss of traction;
 - (b) Part of the penalty for an offence against this section is mandatory disqualification from driving for a period of at least six months. This penalty is not available for breach of a bylaw;
 - (c) Section 36A is enforced by the Police. Members of the public are more likely to call the Police when they are aware that streets are being used for racing. The Police have greater investigative and enforcement powers than council enforcement officers and can be guaranteed to be on duty at the time that this sort of offending is likely to occur; and
 - (d) The bylaw attempts to prevent street racing by restricting the use of roads. If racing occurred on such roads any prosecution under the bylaw would only

deal with the presence of the vehicles, not the activity carried out. Any element of dangerous driving would be dealt with by the Police under the Land Transport Act.

9. The provisions of the bylaw are useful for ensuring that the particular circumstances of the Selwyn district in relation to road safety are addressed. Where the offences are more serious or of a character which requires greater condemnation it is more appropriate for these offences to be addressed by the Land Transport Act.

Land Transport Act penalties

10. The Land Transport Act provides for a range of penalties, depending on the seriousness of the offence. The offence of driving a vehicle recklessly causing injury or death attracts a maximum penalty of 5 years imprisonment or a fine not exceeding \$20,000. Offences such as racing on a road or causing a vehicle to undergo a sustained loss of traction (along with other offences targeted at "boy racers") are subject to a penalty of 3 months imprisonment or a fine not exceeding \$4,500 and mandatory disqualification from driving.
11. The offence described in section 37 of the Land Transport Act is closer to the level of seriousness of offences described in the bylaw. Section 37 states that it is an offence to operate a vehicle carelessly or without reasonable consideration for other road users. The maximum penalty for this offence is a fine of \$3,000. It is important to note that the provisions of the bylaw do not contain any element of carelessness, and appear to be directed at the nuisance created by "boy racer" activity rather than driving behaviour which risks injury to road users.
12. If the bylaw were to impose a maximum penalty of \$20,000 in respect of offences such as driving the wrong way on a one way street or leaving a motor home on a road for a period in excess of seven days then this would seem inconsistent with the level of penalty available had that person been charged under section 37. Therefore a person could be unfairly disadvantaged by being charged with a breach of a bylaw rather than with an offence against section 37.
13. It is also possible that anyone charged under the bylaw could challenge the validity of the bylaw on the basis of unreasonableness. This type of challenge is known as a collateral challenge because it is raised in proceedings which do not directly impeach the validity of the bylaw, as would be the case in an application for judicial review of the bylaw. To be successful a challenge on the basis of unreasonableness generally requires that the decision is such that no sensible person who had applied their mind to the issue would have arrived at the same conclusion. Given the large discrepancy between the suggested maximum fine and the penalties available for similar offences under the Land Transport Act it is possible that a Court could find that the bylaw is unreasonable.

Recommendation

14. We recommend that the fine imposed by the bylaw should be \$1,500 as this is consistent with the level of fines that would be imposed in respect of similar offences under the Land Transport Act. These offences include:
 - (a) Use of an unavailable lane - \$1,000;
 - (b) Failure to allow impeded traffic to pass - \$1,000;
 - (c) Making unreasonably loud noise from a warning device - \$1,000;
 - (d) Driving on lawn etc, adjacent to or part of road - \$1,000;
 - (e) Operating a vehicle carelessly or without reasonable consideration for other road users - \$3,000.
15. If the Council, having investigated an offence, came to the conclusion that the offence involved issues of safety which cannot be adequately dealt with under the bylaw it may be possible to refer the details of the offence to the Police for prosecution under the Land Transport Act. Relevant offences under the Land Transport Act include operating an unsafe vehicle, dangerous driving and operating a vehicle in a race. These offences attract penalties of between \$2,000 and \$20,000. The offence of dangerous driving also carries a possible prison term of up to five years if death or injury eventuates.
16. Please contact us if you have any further questions.

Yours faithfully
BUDDLE FINDLAY



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