

## ANNEX 7

# Terms of Reference for the Independent Speed Management Committee

### *Context*

1. In November 2019, the Government agreed to the Tackling Unsafe Speeds programme. The programme includes three components:
  - 1.1. introducing a new regulatory framework for speed management to improve how road controlling authorities (RCAs) plan for, consult on and implement speed management changes
  - 1.2. transitioning to lower speed limits around schools to improve safety and encourage more children to use active modes of transport
  - 1.3. adopting a new approach to road safety cameras to reduce excessive speeds on our highest risk roads.
2. As part of the new regulatory framework, the speed management process will be closely aligned with the land transport planning process, bringing together decisions about infrastructure investment and speed management. The aim of this alignment is to ensure a more transparent process for speed management infrastructure, planning and implementation around New Zealand.

### *Description of speed management plans and clarification of Waka Kotahi's roles and responsibilities*

3. Waka Kotahi NZ Transport Agency (Waka Kotahi) is both the Regulator of the road network and the RCA for the State highway network in New Zealand.
4. All RCAs, including Waka Kotahi (as an RCA), are required under the Land Transport Rule: Setting of Speed Limits 2022 (the Rule) to produce a Speed Management Plan (SMP) every three years.
5. Waka Kotahi (as regulator) will continue to provide RCAs with guidance and information on speed management, and increased engagement and encouragement for best practice speed management planning.
6. Waka Kotahi (as a regulator) will work collaboratively with territorial authority RCAs and Waka Kotahi (as an RCA) in the development of Speed Management Plans (SMPs). SMPs will be developed jointly by RCAs and Waka Kotahi (as an RCA), to best reflect and accommodate the interactions between the State highway and local road networks.
7. Waka Kotahi (as an RCA) will work with RTCs and RCAs to enable speed management interventions to be applied consistently across the network. For example, this could involve Waka Kotahi working with an RCA to ensure that a

local road with no safety infrastructure does not have a higher speed limit than an adjoining State highway with safety infrastructure.

8. Regional Transport Committees (RTCs) will provide a forum to encourage consistency across the network and to manage interactions and timing across RCAs, including interactions between local roads and the State highway network, and through boundary issues with bordering regions.
9. State highway SMPs (SHSMPs) must identify speed management proposals and set out the objectives, policies, and measures for managing speed on the State highway network for at least 10 financial years from the start of the SHSMP.
10. SHSMPs must also include an implementation programme for at least three financial years from the start of the plan, setting out changes (if any) being proposed to speed limits, road safety cameras and safety infrastructure on the State highway network and the timeframe within which each change is proposed to occur.
11. Once consulted and finalised, SMPs will be sent to Waka Kotahi.
12. The Speed Management Committee (SMC) will confirm whether the SHSMP meets the process-related criteria of the Rule. Waka Kotahi will confirm whether Regional SMPs meet the process-related criteria in the Rule. It is not the role of the SMC or Waka Kotahi to re-evaluate each individual speed management intervention proposed in SMPs.
13. The Director of Land Transport will be responsible for certifying all Regional and State highway SMPs.
14. Once a SHSMP has been certified and published, Waka Kotahi (as an RCA) will be responsible for implementing the agreed changes in the plan.
15. All speed limits formally come into force through inclusion on a national register (known as the Register of Land Transport Records).

#### ***Establishment of an independent speed management committee***

16. Cabinet agreed to establish a national Speed Management Committee (SMC) to assess Waka Kotahi (as an RCA) SHSMPs against process-related criteria in the Rule. This needs to occur prior to the Director providing final certification and comment.
17. The SMC could request the Agency, if deemed necessary, to procure an independent review on the speed management guidance Waka Kotahi (as regulator) will provide to RCAs.
18. The Rule and the Land Transport Act require Waka Kotahi to establish the SMC, with members appointed by the Minister of Transport. Te Manatū Waka facilitates the appointment process in consultation with the Director (though consultation with the Director is not required by the Rule).

19. A review of the speed management framework will be scheduled three years after the new speed management framework is in place, including consideration of how the SMC and Director roles are working.
20. The Rule sets out the functions, powers, and duties of the SMC. This, together with the fact that the members are appointed by the Minister of Transport provides the SMC with independence from Waka Kotahi and the Director.

The Speed Management Committee will be established to:

- review the draft State highway speed management plan and provide advice to the Director as well as any comment the committee considers the Director should make in accordance with the Rule
- provide oversight of the information and guidance on speed management that the Agency provides under this Rule, to ensure that the information is up to date and is fit for purpose

The Speed Management Committee may also provide comments to the Agency (as RCA) on a consultation draft plan during the consultation process.

### ***Speed Management Committee's responsibilities***

21. The SMC has the following responsibilities:

- reviewing the draft SHSMP and providing advice to the Director as well as any comment the SMC considers the Director should make in accordance with this Rule prior to the Director providing final certification
- Providing oversight of (and if the SMC considers it necessary, requesting Waka Kotahi to procure independent reviews to comment on) the information and guidance on speed management Waka Kotahi (as regulator) provides under the Rule, to ensure this information is up-to-date and fit-for-purpose.

22. The review of SHSMPs by the SMC will provide confirmation to the Director if SHSMPs meet the process-related criteria in the Rule. It is not the role of the SMC to re-evaluate each individual speed management intervention proposed in SHSMPs. The SMC must be satisfied SHSMPs include the following:

- an implementation programme for at least three financial years from the start of the SHSMP setting out the changes (if any) being proposed to speed limits (including, to the extent practicable, the information that would need to be submitted to the Registrar to set the proposed speed limit), safety cameras and safety infrastructure on the relevant roads and the timeframe within which each change is proposed to occur
- the outcome of reviews of all speed limits of 70 km/h or 90 km/h

- any designation of a category two school; and an explanation for why, having regard to any guidance provided by the Agency about speed limits outside schools, the speed limit outside the category two school is safe and appropriate for the road
- comment on any changes to speed limits, safety cameras and safety infrastructure that were included in the implementation programme in the previous plan (if any) that have not been implemented
- for any changes being proposed to a speed limit that do not align with Waka Kotahi's assessment of the safe and appropriate speed limit for the road, an explanation for why the road controlling authority proposes a different speed limit
- include comment on any review relevant to the region that has been completed by the Agency since the previous plan was published.

23. The SMC must also be satisfied that Waka Kotahi (as an RCA) has confirmed that it has undertaken appropriate consultation on the SHSMP. The Rule will require consultation with Māori. The Rule will encourage a joint consultation process on State highways and local roads to occur, whereby an RTC will be able to receive submissions on proposed changes to all roads in their region and forward submissions on the State highway network on to Waka Kotahi, who must then consider these submissions.

24. When assessing a final draft SHSMP, the SMC may also provide comment in writing on the extent to which, in its view, the SHSMP:

- sets out the objectives, policies, and measures for managing speed on relevant roads for at least 10 financial years from the start of the SHSMP
- is consistent with the road safety aspects of the current Government Policy Statement on Land Transport and any current Government road safety strategy
- takes a whole-of-network approach by including consideration of a range of speed management interventions
- is likely to lead to speed limits set in compliance with the Rule
- has had regard to the desirability of a road under the control of one RCA and an adjoining road under the control of another RCA having the same speed limit, unless there is good reason for different speed limits
- is likely to lead to compliance with the timeframes for when safer speed limits around schools must be implemented (i.e. each RCA must ensure at least 40 percent of schools under its control have speed limits that comply with the Rule by 30 June 2024; 100 percent of speed limits must comply by 31 December 2027).

25. Waka Kotahi (as an RCA) will need to confirm that consultation has been carried out, and that the plan sets out the objectives, policies and measures as required by the Rule. If the SMC is satisfied Waka Kotahi has met these requirements, the SMC must provide advice to the Director on the extent to which the final draft plan meets the requirements recommend the Director to certify the SHSMP who will provide a certificate to that effect.
26. If the Director is not satisfied that Waka Kotahi (as RCA) has met the Rule requirements, it must refer the final draft plan back to Waka Kotahi (as RCA) with recommendations about how Waka Kotahi (as RCA) can meet the requirements in the Rule. The Director may seek further SMC advice at this point.
27. The SMC may also provide comments to Waka Kotahi (as RCA) on a consultation draft plan during the consultation process, limiting its comments to the same matters it can advise the Director on.
28. A Secretariat based at Waka Kotahi, and independent of Waka Kotahi (as RCA) will support the SMC.

#### ***Appointment of SMC Chairperson***

29. The Minister of Transport appoints the Chair of the SMC.
30. The Chair is responsible for:
  - setting the agenda for SMC meetings
  - presiding at each SMC meeting
  - casting a deciding vote in the event of a tied vote on a particular issue.
31. Should the Chair be unable to exercise their functions because they are either unavailable or interested in a matter, the meeting will be chaired by the deputy chair the Minister has appointed or, if there is no deputy chair, by a temporary Chair appointed by the SMC. This is to be noted in the minutes where relevant.

#### ***Appointment of SMC members***

32. The Minister of Transport will appoint the members by written notice, which will state the term of the appointment (to be three years or less).
33. Te Manatū Waka facilitates the appointment process in consultation with the Director.
34. The SMC will comprise of members selected for their expertise in their specialist areas. This includes the following:
  - appropriate knowledge, skills, and experience in relation to speed management and road safety

- appropriate knowledge, skills, and understanding of the impacts of speed management on local government, motorists, rural communities, vulnerable road users, freight carriers or enforcement matters
- other appropriate knowledge, skills, and experience to assist the SMC to achieve its purposes, perform its functions and duties, and exercise its powers.

35. Members are not appointed as representatives of their primary employer or any other organisation.

36. The SMC must have no more than nine members.

37. SMC membership will be listed on the Waka Kotahi website.

### **Responsibilities of all SMC members**

#### *Meetings*

38. SMC meetings will normally be held in Wellington. Members may attend the meeting in person or by videoconference/teleconference link.

39. The timing of meetings will align with the certification of Waka Kotahi SHSMPs. This will require meeting to certify plans approximately every three years in accordance with the Rule.

40. The SMC will also be required to meet to review and provide comments on the information and guidance on speed management Waka Kotahi (as regulator) provides. The frequency of these meetings will occur on an as-needed basis.

41. All members are expected, prior to each meeting, to have:

- critically appraised all information provided to the SMC to be considered at the meeting
- analysed the subject forming an initial professional view for discussion at the meeting.

42. All members are required to provide their view on SHSMPs and/or the information and guidance on speed management Waka Kotahi (as regulator) provides. Members must be prepared to discuss these topics with other members in a professional and constructive manner.

43. If one or more members cannot attend a meeting, the Chair may agree to hold the meeting in the members' absence and forward notes of the SMC's preliminary deliberations to the absent member(s).

44. A substitute or proxy cannot represent members who are unable to attend a SMC meeting.

45. The SMC is expected to reach a consensus on whether a SHSMP has met the requirements of the Rule and on its comments on the information and guidance on speed management Waka Kotahi provides.
46. If a consensus cannot be reached, a recommendation may be advanced based on a majority view. Any minority views can be recorded in the Minutes.
47. Following the meeting, all members are expected to contribute to the finalisation of the meeting Minute in a timely manner.

#### *Interest reporting*

48. SMC members must declare any interests prior to each meeting.
49. The Crown Entities Act 2004 may require the member to be removed from matters and not vote unless the Chair (or in some cases the Minister) gives permission otherwise. In the case of lesser conflicts (where the Crown Entities Act provisions do not apply), the Chair may determine, in consultation with Waka Kotahi and the Ministry of Transport, the appropriate mitigation steps required for managing each interest that arises.
50. If members of the SMC develop new, relevant interests, whether they might lead to real, potential or perceived conflicts, they are expected to inform the Secretariat as soon as is reasonably practicable and declare them at the start of the next meeting.

#### *Media*

51. Only the Chair is authorised to comment publicly on the affairs of the SMC, and as a matter of no surprises, the Chair is expected to advise the Secretariat and the Minister of Transport in advance.
52. Members are expected not to take any action or make any public statement that is derogatory of or in any way damaging to the SMC, Waka Kotahi, Te Manatū Waka, or the Minister of Transport. Doing so may result in the Minister removing the member from the SMC.

#### *Conduct*

53. Members must perform their functions in good faith, honestly and impartially, and avoid situations that might compromise their integrity or otherwise lead to conflicts of interest. Proper observation of these principles will protect the SMC and its members and will ensure it retains public confidence.
54. Members must conduct themselves in accordance with the SMC Terms of Reference at all times.

## **Membership**

### *Reappointment, removal, and resignation*

55. Any member of the SMC (including the Chair) continues in their role despite the expiry of their term as specified in their letter of appointment until the first of the following events to occur:
- they are reappointed
  - their successor is appointed
  - the Minister of Transport informs the member by written notice the member is not to be reappointed and no successor is to be appointed at that time.
56. Any member may be reappointed at the discretion of the Minister of Transport.
57. Any SMC member will cease to hold office if they resign, are removed from office, or become disqualified for appointment through a conflict of interest or any other matter as identified in their disclosure and consent letter.
58. A member of the SMC may resign from office by written notice to the Minister of Transport (with a copy to the Secretariat and the Ministry of Transport) signed by the member. The resignation is effective on receipt by the Minister of Transport of the notice, or at any later time specified in the notice.
59. The Minister of Transport may, at any time and entirely at their discretion, remove a member or cancel an appointment if they consider the member to be no longer fit to fulfil the role as a SMC member. This removal will be made by written notice and will state the date of removal.
60. Members are not entitled for any reason to any compensation or other payment of benefit if they are removed, resign, or are not reappointed.

### *Remuneration of members*

61. SMC members will be remunerated in recognition of the services they provide to the Government on the matters outlined in this document. This includes attendance at meetings, time spent preparing for meetings, and for performing any other work as requested by the Minister of Transport or officials.
62. The Cabinet Fees Framework, administered by Te Kawa Mataaho Public Service Commission, determines the level of fees paid. The fees for the SMC have been set at \$XXX per day for the Chair, and \$XXX per day for the members. *(TBC in the APH Cabinet process)*
63. Waka Kotahi will cover reasonable travel and accommodation expenses for members to attend meetings.
64. One to two days preparation is expected for each meeting. The SMC is expected to keep the Secretariat informed of the number of days worked.

### *Secretariat support*

65. Waka Kotahi will establish a Secretariat to support the SMC and assist the Chair in performing their role.
66. The Secretariat will liaise with SMC members to arrange meetings at a suitable time and frequency.
67. The Secretariat is responsible for ensuring a Minute of each meeting of the SMC (including by videoconference or other means of communications) is kept and for liaising with the SMC to agree the final version of the Minute. The Secretariat will ensure the finalised Minute is published at an appropriate time.
68. The Secretariat will maintain a SMC conflicts of interest register.
69. The Secretariat will support the preparation of any requests for information regarding the SMC and will arrange publication or release of any necessary information.
70. The Secretariat will provide support by sending the agenda and related papers to SMC members, and managing correspondence between SMC members and third parties.
71. The Secretariat is not a member of the SMC and does not have voting rights at any SMC meeting.
72. Prior to carrying out its roles, the SMC will be educated on the following:
  - 72.1. the Speed Management Guide and how it should be applied
  - 72.2. the template for the SHSMP
  - 72.3. how recommendation to the Director of Land Transport on SHSMPs should be carried out.

### **Confidentiality**

73. Advice provided by the SMC is confidential until the final decision is made by the Director. SMC members are expected to adhere to the relevant individual and collective obligations of boards under the Crown Entities Act. This includes maintaining the confidentiality of information disclosed to SMC members, and not disclosing information that would not otherwise be available to SMC members.

### **Official Information Act 1982 (OIA) requests**

74. The Secretariat will arrange for publishing of SMC meeting minutes and any formal written advice prepared by the SMC at an appropriate time on the Waka Kotahi website. Certain information may be withheld in accordance with the OIA.
75. Communications and advice of the SMC will be subject to OIA requests, which Waka Kotahi will compile.