

Vehicle Crossings Bylaw Proposal

1 Proposal

The Far North District Council proposes to make a vehicle crossings bylaw under the Land Transport Act 1988 and the Local Government Act 2002.

2 Context

2.1 What is a vehicle crossing?

A vehicle crossing is the area of driveway, whether temporary or permanent, between a road and a private property boundary, intended to provide vehicle access to a property. Vehicle crossings may be constructed over footpaths, kerbs, berms, water channels or drains.

These crossings are part of the road corridor or 'road reserve' and are managed by the relevant Road Controlling Authority (RCA) i.e. vehicle crossings from State Highways are managed by Waka Kotahi New Zealand Transport Agency, whereas vehicle crossings from all other roads are managed by Local RCAs, such as Far North District Council. The proposed bylaw addresses vehicle crossings from local roads that are not State Highways.

Although the road corridor is managed by the RCA, vehicle crossings are installed and repaired at the property owner's expense.

2.2 Council's engineering standards and District Plan

To be fit for purpose and safe, vehicle crossings should be constructed to meet appropriate engineering standards. These standards are technical in nature with different dimensions and materials specified for rural and urban areas depending on the number and size of vehicles using the crossing. For example, standards for a crossing onto a dairy farm where a milk tanker visits daily are different from a residential property where light vehicles normally access the property.

The New Zealand Standard for Land Development and Subdivision Infrastructure (NZS4404:2010) includes specifications for vehicle crossings. These specifications are used by Council's roading engineers to set engineering standards for the Far North District and modified to reflect the unique characteristics of the District Plan. The council's engineering standards are published on Council's website [[FNDC Engineering Standards](#)]. NB: The local FNDC Engineering Standards are currently under review.

[Chapter 15 \(Transportation\) of the District Plan](#) also sets out permitted activities and restrictions for accessways (vehicle crossings) in the District.

2.3 Council resolution to make a new bylaw

On 21 May 2020, Council resolved that under [section 145 of the Local Government Act 2002](#), a bylaw is the most appropriate way of addressing the health and safety hazards and public nuisance that can be caused by vehicle crossings in the Far North District that are not fit for purpose; such as through poor construction or repair.

2.4 Making new bylaws

Under sections [145](#) and [146](#) of the Local Government Act 2002 Council's objectives are to:

- protect the public from nuisance

- protect, promote and maintain public health and safety
- protect its assets from damage.

These objectives will be met by ensuring that vehicle crossings are fit for purpose, including by being constructed and repaired to meet appropriate engineering standards.

Meeting these objectives will help ensure the public has confidence that Council's regulations are suitable and appropriate in this area.

The Land Transport Act 1998 provides that the Council is the Road Controlling Authority for roading in its district that are not State Highways. The Council owns and manages these roads.

2.5 Options considered by Council

The council considered three options in May 2020:

1. Do-nothing/status quo

Under this option Council would take a "hands off" or reactive approach and only address hazards or damage caused by poorly constructed or maintained vehicle crossings when a complaint is made, or an accident or mishap occurs. The council could either remove a redundant crossing under [section 335 \(9\) of the Local Government Act 1974](#) or prosecute the property owner under [section 17 of the Resource Management Act 1991](#). Current national legislation does not deal with constructing new crossings or the repair of existing vehicle crossings.

This option was not adopted for two main reasons:

- compliance with Council's vehicle crossing standards would be voluntary, so there would be a risk that crossings are poorly constructed or inadequately repaired by the property owner and create more hazards or damage
- under existing legislation, Council does not have the power to deal with new vehicle crossings or the repair of existing crossings, so building a new crossing or repairing a crossing to the correct standards would not be covered with a do-nothing approach.

2. Provide information and education only

Under this option, Council would provide online and printed material about vehicle crossing construction and repair to encourage property owners to observe the engineering standards. This would include basic information e.g. a diagram showing what is meant by a vehicle crossing, an explanation that constructing a crossing is not a DIY task and should be conducted by an experienced and qualified contractor etc.

Providing good information and education will help property owners understand how to construct and repair vehicle crossings in a manner that avoids health and safety hazards and/or damage to adjacent council assets. This information is also likely to encourage voluntary compliance with standards set by the Council because under the VADE model² of intervention, most people will be willing to do the right thing if they are given the right information. See section five of this document for a fuller explanation of VADE.

However, relying solely on information and education does not fully meet the objectives to protect the public from nuisance; to protect, promote and maintain public health and safety; and to protect Council's assets from damage, for the following reasons:

- this approach does not allow for inspection of crossings to ensure they meet proper technical standards
- it does not include enforcement provisions to deal with vehicle crossings that are not safe
- it does not address the problems caused by the minority of people who wish to cut corners or ignore the standards.

Therefore, this option by itself cannot fully ensure that vehicle crossings will be safe and properly maintained and therefore Council resolved that information and education would play a supporting role for a bylaw rather than being a stand-alone option.

3. Make a bylaw

A bylaw would require that vehicle crossings are constructed and repaired in accordance with Council's engineering standards and would give Council the power to check that the work meets these standards by inspections during and after construction.

If a bylaw is made, under section [335\(1\) of the Local Government Act 1974](#) if there is an existing vehicle crossing that does not meet Council's standards for its proper construction, Council can repair or replace the crossing. It can require the occupier or landowner to pay Council for this work, subject to a reconsideration/objection process.

The bylaw would give Council the power to enforce its requirements under [section 143 of the Local Government Act 2002](#).

Making a bylaw was chosen by Council as the preferred option because:

- it will set in place appropriate standards for vehicle crossings to protect the public from health and safety issues and protect Council's assets from damage
- it will ensure public confidence that vehicle crossings will be safe and properly maintained
- an inspection process is an appropriate way to detect and remedy non-complying construction and ensure that technical standards are met
- if someone breaches the bylaw, Council can use a range of compliance and enforcement measures to ensure the bylaw is complied with.

3 Consultation about the draft bylaw

3.1 Purpose of consultation

Consultation is required to obtain views from the community about the draft vehicle crossings bylaw so Council can determine the most appropriate form of the bylaw.

3.2 How to have your say

Your views on the proposed new vehicle crossings bylaw are important to us, but we need your feedback by **5pm on Friday 27 November 2020**.

There are several ways you can have your say. You can download a submission form from our website and email, post or deliver it to us. You can also make a submission online.

Please ensure that you state in your submission if you want to present your submission in person at a Council hearing.

3.3 How to make a submission

Council encourages any person or organisation with an interest in the Vehicle Crossings Bylaw to give feedback. Submissions can be made between 2nd November and 4pm, Friday 27th November 2020. To make a submission you can:

- submit online at *[to insert link]*
- email your comments to submissions@fndc.govt.nz
- drop off a written submission at any Council service centre or library.

- post your submission to:
Far North District Council,
Vehicle Crossings Submissions,
Far North District Council,
Private Bag 752,
Kaikohe 0440.

3.4 Timeline for considering the proposed bylaw

Submissions Period	2nd November until 5pm Friday 27th November 2020
Hearings (if required)	February 2021 (those who wish to make a verbal submission will be informed of the time and place involved)
Council makes the bylaw	March 2021 (dependent on Council meetings schedule)
The bylaw comes into force	March 2021 (dependent on Council meetings schedule)

4 Content of the proposed bylaw

The proposed bylaw covers the following main areas relating to the use, construction and repair of vehicle crossings throughout the District:

1) Protection of public safety and council's assets

- Motor vehicles are required to use a properly constructed vehicle crossing to cross from a road to a property
- If a vehicle crossing is unsafe or in disrepair, by written notice Council can require the owner or occupier, to remove, repair, or reconstruct the crossing
- The council may remove a vehicle crossing it considers redundant or excessive, at the expense of Council.

2) Appropriate engineering standards

- Construction and repair of a vehicle crossing must comply with Council's current engineering standards for vehicle crossings

3) An approval and inspection process

- An approval from Council is required to construct, reconstruct, or relocate a vehicle crossing.
- Anyone applying for the approval must have the legal authority to deal with the property accessed by the vehicle crossing
- Obtaining this approval requires completing an application form and paying a fee as prescribed in Council's current Fees and Charges Schedule
- An inspection process is involved as an appropriate way to detect and remedy non-complying construction and ensure technical standards are met.

4) Work in the road corridor

- In order to safely conduct work in the road corridor, a Work Access Permit is required. Obtaining this Permit requires completing a Corridor Access Request including a Temporary Traffic Management Plan, which must be approved by Council (as the road corridor manager) before any work commences. Further information about this process is included in the Appendix.

5) Objections

- Those affected by council's vehicle crossing decisions may object to these decisions and have the right to take legal proceedings such as a judicial review of a council vehicle crossing decision

6) Those who do not comply with the bylaw may face prosecution

5 Enforcement of the bylaw will be supported by information and education

The council uses the VADE (Voluntary, Assisted, Directed and Enforced) approach to ensure compliance with bylaws. VADE assumes that most people will be willing to do the right thing if they are given the right information and escalation to enforcement will only rarely be required.

VADE works via a graduated response to those who do not comply with the bylaw. Where a vehicle crossing does not meet the bylaw requirements, staff will provide education and advice to an offender in the first instance, followed by an informal warning if necessary. If this doesn't work, a formal warning may be issued. For serious or ongoing bylaw breaches, Council may prosecute offenders. Penalties could include a fine of up to \$20,000.

The council will support compliance with the bylaw by providing information on Council's website to help property owners understand how to construct and maintain vehicle crossings in a manner that avoids health and safety hazards and/or damage to adjacent council assets.

6 Bill of Rights

It is considered that the proposed bylaw seeks to impose fair, reasonable and justifiable controls on vehicle crossings and there are no known implications in relation to the New Zealand Bill of Rights Act 1990.

7 Draft bylaw

The draft bylaw is provided as a separate attachment.

APPENDIX 1 – INFORMATION REGARDING WORKING IN THE ROAD CORRIDOR

This information will be provided to the public to give context to provisions in the bylaw relating to working in the road corridor.

To work in the road corridor a **Work Access Permit** is required.

A **Work Access Permit** (WAP) is issued when a **Corridor Access Request** is approved. The WAP gives permission to carry out the specified activity in the road corridor. A set of conditions is issued with the WAP, to be followed when working in the road corridor.

A **Corridor Access Request** (CAR) is an application to the council for access to the road corridor in order to carry out works. It is required to ensure all work sites on roads are as safe as possible for workers, motorists, pedestrians and cyclists. The application also allows for the council to coordinate road works and allow for notification to the public, if necessary.

As per the [New Zealand Utilities Advisory Group Code of Practice](#), the following information is required in a CAR:

- A **Temporary Traffic Management Plan** (TTMP) which must include the full form from the NZTA website and any Temporary Traffic Management Diagram(s) necessary for deployment of any Temporary Traffic Management. The design of the TTMP must comply with the [Code of Practice for Temporary Traffic Management](#);
- A plan indicating the proposed scope of works including location in the road corridor and proposed dimensions and design of any excavations;
- Evidence of approvals from any other utilities operators that need to be obtained e.g. close approach approval for power lines; and
- Any other relevant additional information to supplement the application or requested by the corridor manager.

NB. Currently, those who write TTMPs must either hold the Temporary Traffic Management Planner qualification or be enrolled to attend a workshop on TTMPs.

More information on Temporary Traffic Management Plans is included in [the New Zealand Transport Agency Code of Practice for Temporary Traffic Management](#).

The length of time to process the application will depend on the type of request. The minimum processing time for a standard CAR and TTMP application is 5 working days. However, this may be longer e.g. up to 42 days if a road closure is required.