

7. STREET RACING - BYLAW CONTROL

Officer responsible Legal Services Manager	Author Peter Mitchell, DDI 371-1549
Corporate Plan Output: Legal Advice	

INTRODUCTION

At its meeting on Friday 9 February 2001 the City Services Committee considered a report, an opinion and a draft bylaw from the Legal Services Manager regarding a bylaw to control street racing activities in the Hornby area. A copy of the opinion from the Legal Services Manager is attached.

After discussion the Committee resolved:

“That a Street Racing Subcommittee be established consisting of the Chairman and Councillors Ingrid Stonhill, David Buist and Sally Thompson to:

- (a) Consider the ramifications of adopting a bylaw of the type outlined in the report;*
- (b) Consider other types of bylaws to regulate street racing activities;*
- (c) Consider measures other than bylaws;*
- (d) Consult with the Riccarton/Wigram Community Board and other interested community boards;*
- (e) Approach the Auckland and Manukau City Councils regarding the possibility of a joint approach to the Government.”*

This report sets out the Subcommittee’s recommendations to the City Services Committee with regard to those resolutions passed by the Committee.

BYLAW

The Subcommittee met on Wednesday 4 April 2001 and Thursday 3 May 2001 to consider the proposed bylaw.

After consultation with the New Zealand Police and Ministry of Transport regarding the form of the bylaw, the Subcommittee is recommending that the bylaw (draft attached) be recommended to the Council.

The bylaw is in two parts:

- (a) Clause 68A provides for a system whereby the Council prohibits the use of vehicles weighing less than 3,500 kilograms (which includes private motor cars and motor cycles) on specified roads between 9pm and 5am Friday to Sunday, and also the evening preceding public holidays.

The roads on which the prohibition is in effect are listed in a schedule attached to the bylaw and at the present time are wholly located in the Hornby area.

The bylaw allows for the Council to add new roads to that list by a publicly notified resolution. The bylaw also requires the Council to erect signs on the roads advising of the prohibition.

The bylaw does not apply to vehicles owned by property owners or occupiers on land having a frontage to those roads, emergency service vehicles, trade or service authority vehicles, Council vehicles or security service vehicles.

- (b) Clause 68B provides that it shall be an offence for a person to operate a motor vehicle by carrying out burn outs on any public road in Christchurch. Furthermore, it is an offence to pour petrol, oil, diesel and other liquids on to roads in conjunction with such burn outs.

Regarding enforcement of the bylaw, the Legal Services Manager recommends that this be done by way of an application to the District Court for a statutory injunction to prohibit persons breaching the bylaw. This would be instead of prosecution and has the advantage that an injunction, if granted by the Court, is permanent in nature and breach of the injunction renders the offender liable to a fine or imprisonment. The Council has used this approach in the past with traders in the Woolston Boulevard and sausage sizzlers and service of the Court order has resulted in the offending activity ceasing. In the present situation, if breaches of the bylaw were to continue, then the Council would apply to have the Court’s order made over the whole city.

IMPOUNDMENT OF VEHICLES

The Subcommittee considered the provisions of the New South Wales (Street and Illegal Drag Racing) Act 1996 which contained provisions authorising the Police to impound motor vehicles which had been involved in burn outs on public roads. By all accounts, this legislation in New South Wales has been very successful in addressing this problem and has now been placed on a permanent basis in New South Wales. The Subcommittee believes similar legislation should be enacted in New Zealand.

The Council has made contact with Auckland and Manukau City Councils with a view to presenting a joint approach to the Government seeking similar legislation in New Zealand. The Subcommittee was advised that those councils had written to the Government but to date, there had not been any commitment by the Government to this course of action. However, very recently, discussions have been held with Hon Jim Anderson MP, who has indicated that he will take the matter up with the Government regarding the impoundment of vehicles for this type of matter. Councillors will also be aware that Mr Clayton Cosgrove MP has publicly stated that he intends to promote a Member's Bill which would authorise the Police to impound the vehicles.

The Subcommittee believes that it is important that the Council support moves such as these to have motor vehicles impounded which are involved in burn outs on public roads and for that reason it is recommending that a strong letter of support for impoundment to be send to the Minister of Transport. Contact should also be continued with other local authorities on this matter.

One of the matters that may be raised in discussion on such a proposal is the availability of facilities to store impounded vehicles. The Subcommittee understands that difficulties have been experienced by the Police and tow truck operators in respect of the existing impoundment provisions under the Land Transport Act 1998 but the Subcommittee is of the view that as the vehicles involved in burn outs have a substantial value such difficulties are unlikely to arise. However, to ensure that this does not become a hurdle to such legislation being enacted, the Subcommittee is recommending that the Council resolve that it be willing to discuss with other parties the making available of Council facilities for the storage of impounded vehicles.

BURN OUT PAD

Councillors will be aware that the Council has budgeted \$50,000 for the provision of a burn out pad at Ruapuna Park and it is anticipated that this should become operational in the next few months once the leasing details between the parties involved have been resolved.

- Recommendation:**
1. That the Council commence the required Special Order proceedings to make the proposed bylaw.
 2. That the Council write to Hon Jim Anderton in support of his proposal for amendment to the appropriate legislation, allowing for the Police to impound vehicles from people engaged in street racing for a period of 28 days.
 3. That it also write to the Minister of Transport also promoting this change to the legislation and offering Council support in respect to storage.
 4. That the Council officer its facilities for the storage of motor vehicles if required by enforcement authorities.