

5. PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC & PARKING BYLAW

General Manager responsible:	General Manager Regulatory and Democracy Services, DDI 941-8462
Officer responsible:	Inspections & Enforcement Unit Manager
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PURPOSE OF REPORT

1. The purpose of this report is to advise the Committee in relation to the Council's resolution of 19 June 2008, requesting staff to:
 - Review how adequate the Parking Enforcement current data collection system is in meeting the requirements to demonstrate nuisance issues when the Council reviews or considers making new bylaws.
 - Report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.

EXECUTIVE SUMMARY

Adequacy of Parking Enforcement Data Collection as it relates to Parking Nuisances

2. The number of complaints/nuisances received by Parking Enforcement that fall outside either current legislation or bylaw offences is minimal. Information obtained from the Parking Enforcement Team indicates that approximately less than three complaints of this nature are received each week. As of 1 October 2008, instructions have been issued to the Customer Call Centre that any parking related complaint or nuisance that falls outside current legislation and bylaws are to be entered into the Request for Service system and forwarded to Parking Enforcement Team for collation. When the next quarterly report is provided to the Regulatory and Planning Committee, a more precise summary will be provided in regards to how many nuisances of this type are being reported. It is anticipated that the types of complaints or nuisance that fall outside current legislation and bylaws will include:
 - Persons sleeping in vehicles;
 - Advertising signs affixed to vehicles on a road; and
 - Caravans or motor homes parked for less than the allowable 7 day period under the current bylaw.

Quarterly Report on the Implementation and Enforcement of the Traffic & Parking Bylaw

3. As directed this report is the first of the quarterly reports to be provided to the Regulatory and Planning Committee for consideration. The timing of the quarterly reports will be as close to the months of October, January, April and July as the circulation of the Regulatory and Planning Committee agenda allows. This report serves as the quarterly report for October 2008.
4. The **attached** schedule of complaints (see Appendix 1) details the number of complaints received and enforcement action taken in relation to clauses 9, 10, 19, 20, 21, 22 and 23 of the Traffic & Parking Bylaw 2008 for the period 1 July 2008 through to 30 September 2008.
5. In relation to clauses 9 and 10, the attached schedule identifies the areas/streets where a number of complaints have been received in the reporting period.
6. Unless signage is installed, clauses 9 and 10 of the new bylaw currently remain unenforceable as an offence. Signage is required to enforce clauses 9 and 10 pursuant to Traffic Control Devices Rule 2004.

7. The Parking Enforcement Team, however, is proactively enforcing parking on grass berms and verges through other means. This is achieved through installing and enforcing no-stopping signs in areas such as around Hagley Park on Riccarton Avenue and Moorhouse Avenue. No-stopping signage has also been erected in Travis Road and Northcote Road for the purposes of protecting grassed areas. The attached schedule details the number of infringements issued for parking in these no-stopping areas (six so far in 2008). Please note that the disparity between the number of complaints received and the number of infringements issued is primarily due to the offending vehicle no longer being present at the time the officer attends to the complaint.
8. Enforcement as it relates to heavy vehicles parked in residential areas (clause 10) is being monitored but cannot be enforced until such time as the operational policy on heavy vehicles parking in residential areas is considered by the Regulatory and Planning Committee. The policy was considered by the Committee in November 2008 and accepted (with amendment) by Council on 27 November 2008.
9. Enforcement action as it relates to clauses 19, 20, 21, 22 and 23 can only be pursued by way of prosecution. This is because those clauses contained in Part 5 of the Traffic and Parking Bylaw 2008 were made pursuant to the Local Government Act 2002. There is no infringement (ticket) regime currently in place for bylaw offences created pursuant to the Local Government Act 2002. A separate report was prepared by Legal Services detailing the options available that might allow for an infringement regime for these offences. This report was considered by the Committee and accepted (with amendment) by Council on 30 October 2008.
10. Where prosecution is the Council's only option, such action is determined with reference to the Solicitor General's guidelines on prosecution. Those guidelines demand that before matters are pursued by way of prosecution, consideration must be given to the evidence available to substantiate the charge and whether, in each individual case, it is in the public interest to pursue the matter through the criminal courts. The general duty placed on enforcement agencies pursuant to the Solicitor General's guidelines demands a consideration of whether the individual matter warrants the intervention of the criminal law. Given the relatively low-level nature of the offences created under the bylaw (as compared with general criminal matters), it is implied through the Solicitor General's guidelines that wherever appropriate, warnings should be given to offenders prior to enforcement agencies resorting to the criminal courts for resolution. As such, and in response to the fact that clauses made under Part 5 of the Traffic and Parking Bylaw 2008 do not carry the option currently to issue an infringement notice, Parking Enforcement have started to collate data on warnings issued for breaches of those offences. The authority to take prosecution action currently rests solely with the Inspections and Enforcement Unit Manager. Operational instructions issued by the Inspections and Enforcement Manager to the Parking Enforcement Team require any individual who has been issued with two warnings in relation to clauses 19, 20, 21, 22 and 23 be brought to the Team Leaders attention for consideration as to whether it is in the public interest to pursue a prosecution.

FINANCIAL IMPLICATIONS

11. There are no financial implications arising out of this report.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

12. Not applicable.

LEGAL CONSIDERATIONS

13. There are no legal considerations arising out of this report.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

15. Not applicable.

CONSULTATION FULFILMENT

16. No public consultation has been undertaken in relation to this report, however the matter has been consulted internally with the Transport and Greenspace Unit.

STAFF RECOMMENDATION

It is recommended that the Committee:

- (a) Receive this report for information.
- (b) Approve the format and content of this report for future reporting on a quarterly basis.