

9. PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC AND PARKING BYLAW

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

1. The purpose of this report is to update the Regulatory and Planning Committee following a Council resolution of 19 June 2008:
 - (a) Requesting staff to report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.
 - (b) 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. At the Regulatory and Planning Committee held on 2 March 2009, the Committee redirected that this be included in the report to the Regulatory and Planning Committee on 6 August 2009.
 - (c) Requesting staff to begin work on developing a Memorandum of Understanding with the New Zealand Police.

EXECUTIVE SUMMARY

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

2. This is the fourth quarterly report tendered 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 Regulatory and Planning Committee agenda allows. This report serves as the quarterly report for June 2009.
3. At the Regulatory and Planning Committee meeting of 2 March 2009, it was raised by the Committee that there was no data explaining where complaints were resolved informally in relation to complaints detailed in Part 5, of Appendix 1. An additional column titled "informally resolved" has been added to **Appendix 1**. Such resolutions include situations where compliance has been achieved after verbally speaking with the vehicle owner or where upon arrival at the scene there is no offence.
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 and Parking Bylaw 2008 for the period 1 April 2009 to 30 June 2009.
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. **Appendix 2** details that for the 2008/09 year the most prevalent complaint (14 complaints) related to parking on the grass verge on the west side of Cranmer Square. As reported in the May quarterly report the Parks Contracts Manager (Transport and Greenspace) has now installed waratahs and tape to prevent vehicle access onto the grass verge. Parking wardens are monitoring this on a daily basis. The Parks Contracts Manager has advised that a number of options have been identified to permanently restrict vehicle access to these berms, however, for budget reasons, permanent barriers to restrict vehicle access to these areas are unlikely to be put in place this financial year (2009/10).
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. Appendix 2 details the number of infringements issued for parking in these no-stopping areas, the total being 10 for 2008/09. Please note that any disparity between the number of complaints received and the number of infringements issued is either due to the offending vehicle no longer being present at the time the officer attends to the complaint, or because as there is no signage, the matter cannot be enforced.
8. The Committee should also note the draft amendment to the Land Transport Road User Rule (no. 61001/4), on which the Council made a submission. The New Zealand Transport Agency is proposing that the amendments is likely to come into effect in 2009/10. The rule includes a proposal for a new clause which will deal with parking of vehicles off the roadway. It will mean that people will be prohibited from parking on a grassed area or other cultivation forming part of a road that is within an urban traffic area, and the Council will only have to erect signs or markings if it wants to allow a person to park in those places. An urban traffic area is an area which is subject to a speed limit of 50 kilometres per hour. The Council's submission approved of this rule amendment but suggested that the speed limit for an urban traffic area be raised to 60 kilometres per hour. As at the date of this report, information from the NZTA website indicates that this rule is currently in the "white phase" and that the analysis of submissions is underway. (There are four phases in total for a rule amendment - blue phase (policy development), yellow phase (being prepared or out for public consultation), white phase (post consultation) and the final signed rule.)
9. Complaints relating to "heavy vehicles parked in residential areas" where a restriction in regards to this is not already in place, (clause 10) is being monitored by Parking Enforcement. As the Regulatory and Planning Committee have now adopted the operational policy, complainants are advised of the process laid out in the policy and requested to write to the Council outlining issues they believe warrant a restriction being installed. Any such requests are considered by the Transport and Greenspace Unit, which are then forwarded to the appropriate Community Board for determination.
10. 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 submission seeking an infringement regime has been prepared by Legal Services which was forwarded to the Minister of Local Government in March 2009. Receipt of the submission has been acknowledged by the Minister's office. A timeframe for a decision is unknown at this juncture.

11. 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 staff 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.
12. **Appendix 2** is a summary of the data for all four quarters reported to the Regulatory and Planning Committee.

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

13. At the Regulatory and Planning Committee meeting on 4 December 2008, staff were directed to report annually on parking related complaints that are currently not enforceable under the Traffic and Parking Bylaw 2008.
14. The number of complaints/nuisances received by Parking Enforcement that fall outside either current legislation or bylaw offences is minimal. **Appendix 3** details 30 complaints that were received for the year 2008/09. Note the data represents nine months of the year, as the process to capture this data was put in place with the Council Call Centre starting 1 October 2008. Appendix 3 also details that only three categories of unenforceable complaints were received: Advertising signs on vehicles; persons sleeping in vehicles (cars and campervans in public places), and motor scooters/motorcycles parked in pushbike stand areas.
15. At the Regulatory and Planning Committee meeting on 2 March 2009, staff were asked to report back on all complaints received by the Council relating to sleeping in vehicles in public places, and any complaints regarding defecating/urinating in public places linked to persons sleeping in vehicles. Appendix 3 details that the Council has received a total of 14 complaints in regards to persons sleeping in vehicles. No complaint data is captured by the Council in regards to defecating/urinating in public places, as these complaints are referred to Police.
16. At the Regulatory and Planning Committee meeting on 2 March 2009, the Committee sought clarification as to how the call centre dealt with multiple calls in relation to the same complaint. The Call Centre either create a separate Customer Service Request (CSR) for each new complaint received or a note is made on an existing CSR relating to the same issue that a further complaint has been received in relation to the matter. All CSRs relating to the data contained in the attached Appendices, have been manually checked to ensure all complaints received have been reported.

Memorandum of Understanding - Development with Police:

17. On 19 June 2008 the Council passed a resolution directing staff to “begin work on developing a Memorandum of Understanding with the NZ Police”. A draft Memorandum of Understanding has been forwarded to Police for review. Further meetings with Police are scheduled over the next few months with the view to reaching agreement on the contents of the memorandum.

FINANCIAL IMPLICATIONS

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

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

19. Not applicable.

LEGAL CONSIDERATIONS

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

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

21. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council’s strategies?

22. Not applicable.

CONSULTATION FULFILMENT

23. 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 Regulatory and Planning Committee receive this quarterly report for information.