

## 9. CATHEDRAL SQUARE LIGHT VEHICLE BAN

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### PROPOSAL/PURPOSE OF REPORT

The purpose of this report is to recommend that the Council impose a prohibition, by means of a bylaw, on the use of vehicles weighing less than 3,500 kg in Cathedral Square and its approaches, during certain times of the day.

### EXECUTIVE SUMMARY

There are in excess of 2,000 beds in buildings overlooking Cathedral Square and its approaches with three new developments in the planning stage which will create significantly more beds. The operators of these accommodation houses receive constant complaints from their guests when they are woken from their sleep by the noise from cars with big bore exhausts driven by "hoons". The police have responded to this problem by suggesting a ban, at certain times of the day, on vehicles weighing less than 3,500 kg. They have suggested this because of the success such bans have had in other (mainly industrial) areas within the city.

### FINANCIAL CONSIDERATIONS

Signs have been designed (see attachments) and sites chosen so that if and when the staff recommendations are approved, they can be manufactured and installed so that enforcement can be carried out. It is estimated that the manufacture and installation of these signs will cost \$12,000. This has not been allowed for in current budgets but because of the urgency would have to be managed within existing budgets. This means that other work will have to be deferred.

### RECOMMENDATION

Should the Council wish to proceed with the ban, then the following is the means to achieve it.

That the Council resolve:

1. That a bylaw is the most appropriate means of addressing the problem of noise from cars late at night in Cathedral Square and its approaches.
2. That the most appropriate form of bylaw for this purpose is the Christchurch City Traffic and Parking Bylaw 1991 amended in the manner detailed in recommendation 4 below.
3. That such amendments to the Christchurch City Traffic and Parking Bylaw 1991 do not give rise to any implications under the New Zealand Bill of Rights Act 1990.
4. That the Christchurch City Traffic and Parking Bylaw 1991 be amended by:
  - (a) inserting after paragraph (e) of Clause 68A(2) the following paragraph:

*"(f) any commercial passenger vehicle"*
  - (b) revoking the Ninth Schedule and substituting the schedule which is contained in the attachment marked "Appendix 1".
5. That the abovementioned amendments come into effect on 9 December 2004.

## BACKGROUND

At the Council meeting on 25 March 2004 Councillor Stonhill tabled a petition from business proprietors, accommodation providers and residents of Cathedral Square, requesting that the Council close off the Square to all through vehicles (with the exception of emergency and service vehicle) on Thursday, Friday and Saturday nights between the hours of midnight and 5.00 am, on the basis that vehicles travelling through the Square created unacceptable noise levels that were impacting on their ability to go about their business, work and live within the Square. The Council referred the petition to the Sustainable Transport and Utilities Committee. A report from staff concerning this (and other issues) was presented to the STU Committee on 11 May 2004. After considering the report the Committee referred the report to the Council with the following recommendation:

- “3. *That provision be made in the Christchurch City Traffic and Parking Bylaw to ban vehicles under 3,500 kg from entering the Cathedral Square precinct bounded by Gloucester Street, Manchester Street, Hereford Street and Oxford Terrace between 12 midnight and 5 am, seven days per week.*”

The report was considered by Council at its meeting on 27 May 2004. At that meeting the Council adopted the Committee's recommendation subject to the following amendment:

*“That recommendation 3 be amended to provide for a specified exemption for:*

- (a) Owners and occupiers of buildings in the Square and their bona fide visitors;*
- (b) Commercial passenger vehicles;*
- (c) Service and emergency vehicles.”*

## OPTION IDENTIFICATION AND ASSESSMENT

Three options were considered when addressing this problem.

1. **Do nothing** and use existing laws or encourage the accommodation owners to identify other options like installing “hush glass” on their buildings.  
*Assessment:* The Police are reluctant to use existing laws regulating noise from vehicles as these are not written in a precise manner which promotes effective enforcement.
2. **Ban all traffic from Cathedral Square from midnight to 5.00 am.**  
*Assessment:* This could be achieved by a physical barrier. However emergency service vehicles and other exemptions would have to gain access and a physical barrier would be a problem. Larger vehicles do not create the noise problem that the “hoon” vehicle does.
3. **Ban vehicles weighing less than 3,500 kg** from Cathedral Square from midnight to 5.00 am seven days a week.  
*Assessment:* This was promoted by the Police and is supported by the accommodation businesses and has been successful in other areas.

## CONSULTATION

The proposal was presented as a petition to the Council by the owner/operators of the accommodation houses in Cathedral Square. This group is well represented on the Cathedral Square Stakeholders Group. The Police worked with the owner/operators in preparing this request. A media release explaining the problem and proposal was issued for feedback. A notice has been delivered to businesses within the affected area. There were 24 responses, 18 for the ban and six against the ban.

The responses against the ban were concerned that all affected parties were not aware of the implications this will have and they see this as being contrary to the Council's wish to make the Cathedral Square a vibrant place. Comments such as “another means of making the Square unfriendly to the public”, “making the Square confusing” and “tourists being affected” were received.

## MECHANISM TO INTRODUCE PROHIBITION

The only effective means of implementing the ban referred to in option 3 is by way of bylaw. In particular the ban may be implemented by means of Clause 68A and the Ninth Schedule of the Christchurch City Traffic and Parking Bylaw 1991 and by making several minor amendments thereto. Clause 68A provides:

### ***“68A. PROHIBITED TIMES ON ROADS***

- (1) No person shall use a motor vehicle weighing less than 3,500 kilograms on any part of a road described in the Ninth Schedule during the times and the day specified in the Ninth Schedule.*
- (2) Nothing in subclause (1) above shall apply to:*
  - (a) the owner or occupier of any land having a frontage to the road described in the Ninth Schedule or to his or her bona fide visitors;*
  - (b) any fire appliance, ambulance, police or medical motor vehicle;*
  - (c) any trade or service authority vehicle for the provision or maintenance of a utility on the road or on land having a frontage to the road;*
  - (d) any vehicle owned by the Council;*
- (3) The Council shall erect signs on the roads described in the Ninth Schedule advising the times and days of the prohibition under subclause (1) and that the prohibition applies to motor vehicles weighing less than 3,500 kilograms.*
- (4) The Council may from time to time by resolution publicly notified, and subject to the erection of the signs referred to in clause 68A(3), make additions, alterations or deletions to the Ninth Schedule.*
- (5) The Council shall review the roads listed in the Ninth Schedule within 5 years of the commencement of this Bylaw.”*

The Ninth Schedule to the Bylaw contains prohibitions already imposed by the Council under Clause 68A. Clause 68A(4) effectively allows the Council to add further prohibitions by means of a resolution amending the Ninth Schedule.

The exemptions to the proposed prohibition, numbered (a) and (c) in the Council's resolution of 27 May 2004, are already provided for in Clause 68A(2). The exemption numbered (b) which relates to commercial passenger vehicles is not specifically provided for. In order to provide for this exemption it would be necessary to amend Clause 68A(2). That can be done by way of resolution pursuant to Section 156(2)(a) of the Local Government Act 2002 on the basis that it is an amendment of minor effect. It should be noted, however, that such an amendment would apply to every other road in respect of which prohibited times had already been imposed pursuant to Clause 68A.

In order to implement the proposed restrictions for Cathedral Square and its approaches it is necessary, in the interests of clarity, to rewrite the Ninth Schedule to the bylaw. This is because the time restrictions proposed for these areas differ from the time restrictions already imposed for other roads within the city. A draft replacement Ninth Schedule is attached marked "Appendix 1". The draft Ninth Schedule would preserve the existing restrictions and impose the additional restrictions now proposed.

For the purposes of section 156(2)(a) it is considered that the substitution of the draft Ninth Schedule for the existing Ninth Schedule would also constitute an amendment of minor effect.

It is considered that the abovementioned amendments to the Christchurch City Traffic and Parking Bylaw 1990 do not give rise to any implications under the New Zealand Bill of Rights Act 1990. While it might be viewed by some to be a limit on the freedom of movement provided for in section 18 of that Act, it is considered that if it were such a limit, then at the very least it is a justified limit in terms of section 5 of that Act.

## **CONCLUSION**

The proposal to prohibit vehicles weighing less than 3,500 kg from the Square and its approaches was suggested by the Police as a way of solving the problem of the noise disturbance created by the 'big bore' car exhausts in Cathedral Square. The proposal was presented to the Council by the accommodation houses with support from the Cathedral Square Stakeholders Group. The other areas where this ban has been successful has generally been industrial streets which is quite different to this proposal. The Council needs to be aware that there are other hotels within the central city that may also request similar bans throughout the central city and that this proposal may set a precedent.