

## 7. STREET RACING PROHIBITION



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### PURPOSE OF REPORT

1. The purpose of this report is to seek Council approval for a limited number of rural roads in the Hasketts Road area to be included in the Ninth Schedule of the Christchurch City Traffic and Parking Bylaw 1991.

### EXECUTIVE SUMMARY

2. Residents in the Hasketts Road area are continually being harassed by large groups of car enthusiasts congregating in their roads, particularly on Friday and Saturday nights and the nights of public holidays. The Police have made submissions to Community Boards to gain support for a ban on light vehicles in these roads at night. This will allow the Police to deal with the drivers of the large number of vehicles present on those roads for the purpose of either participating in or watching burnouts and illegal street racing activities. It will also enable the Police to deal with the drivers of these vehicles when they drive around the roads in question as parts of wider "circuits" before stopping to watch or participate in burnouts and illegal street racing activities. Without light vehicles in the area, the other associated problems such as litter, vandalism and intimidation will be solved as well. The levels of intimidation have now escalated to the point where a number of residents have had windows on their buildings broken and have been threatened with physical assault.
3. The Police have powers to deal with offences relating to the lack of traction of vehicles and the speed of vehicles. However this behaviour will usually have stopped by the time the Police arrive on the scene. It can start up again minutes after they leave. By prohibiting both the spectators and the participants from taking their cars on the road, the problem goes away. The most effective way to achieve this is to include a limited number of roads in the Ninth Schedule of the Christchurch City Traffic and Parking Bylaw 1991 ("the Bylaw").

### FINANCIAL IMPLICATIONS

4. It is estimated that there is a need for approximately seven signs to cover the roads recommended in option 3. The cost for this is expected to be in the order of \$6,000. This will have to come out of existing operational budgets.

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

5. The costs of the signs and the installation is within the LTCCP Transport and Greenspace operational budgets.

### LEGAL CONSIDERATIONS

6. Clause 68A of the Bylaw provides that no person may use a motor vehicle weighing less than 3,500 kg on any part of a road described in the Ninth Schedule to that bylaw during the times specified in that schedule. Clause 68A(4) provides that the Council may, by resolution, make additions to the Ninth Schedule of the Bylaw. Clause 68A is set out in full in the section of this report headed "Background".
7. A matter which must be considered here is whether or not the proposed additions to the Ninth Schedule, as set out in the staff recommendation in this report, would be inconsistent with the provisions of the New Zealand Bill of Rights Act 1989 (NZBOR). The NZBOR protects certain rights and freedoms. These include the freedom of expression, the freedom of association, the freedom of movement and freedom from discrimination.
8. Of relevance here is whether or not adding the roads in question to the Ninth Schedule would be consistent with the freedom of movement which is protected by section 18(1) of the NZBOR. That section provides:

*"(1) Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand."*

9. "Freedom of movement entails the right to be able to go where one pleases and along a route of one's choosing". (The New Zealand Bill of Rights Act: A Commentary, Andrew Butler & Petra Butler, Lexis Nexis 2005). Amongst other things this reflects the common law right of persons to use public roads for the purposes of passage.
10. It is clear that adding the roads in question to the Ninth Schedule is not consistent with the freedom of movement protected by the NZBOR. However section 5 of the NZBOR provides:

*"(5) Subject to section 4 of this Bill of Rights, the rights and freedom contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."*
11. Consequently it needs to be considered whether or not adding the roads in question to the Ninth Schedule, which would result in a breach of the right to freedom of movement, can be justified as a reasonable limit on that right under section 5. In order to meet this requirement:
  - (a) The objective of the measure (that is the problems the proposed additions to the Ninth Schedule seek to address) must be important and significant; and
  - (b) The measure (that is adding the roads in question to the Ninth Schedule) must be proportionate to that objective.
12. Considering each of these in turn, firstly it is considered that the objective is both important and significant. The problem is outlined in detail in this report in the section headed "Background". In summary it is:
  - the damage to the specified roads caused by illegal street racing activities;
  - the danger those activities pose to those participating in or watching those activities;
  - the danger to other road users on those roads while such activities are occurring;
  - the nuisance caused to persons living along those roads as a result of those activities;
  - the threats of physical harm, intimidation and property damage which persons living along those roads are being subject to by persons involved in or associated with those activities.
13. Secondly, it is considered that the measure is proportionate to the objective. The measure has a rational relationship with the objective. The objective is to eliminate the problems referred to above which are being created by persons entering upon the roads in question, in motor vehicles, either for the purpose of participating in or watching the illegal street racing of motor vehicles. The measure is the prohibition of motor vehicles upon those roads, other than those motor vehicles driven by persons who reside on those roads, or their invitees, during the times when unlawful street racing is likely to occur.
14. Further, in relation to this second point, it is considered that in seeking to achieve the objective the measure has been designed to interfere as little as possible with the right to freedom of movement. In this regard:
  - (a) None of the roads in question are classified as major arterials, minor arterials or collector roads in the City Plan. They are all classified as local roads.
  - (b) The roads in question are very limited in extent. There are alternative roads upon which through traffic may avoid the roads in question without any significant degree of inconvenience.
  - (c) The roads which are already listed in the Ninth Schedule are not in the vicinity of the roads in question consequently there will be no adverse cumulative effects to road traffic in general by adding the roads in question to that schedule.
  - (d) The prohibition only applies to motor vehicles weighing less than 3,500 kg.
  - (e) Some vehicles are exempted from the prohibition. These exemptions are set out in clause 68A(2) of the bylaw. This clause is set out below.

- (f) The prohibition is to apply only during limited times, in particular: – Friday – Saturday 9pm-5am; Saturday–Sunday 9pm–5am; Sunday–Monday 9am-5pm; and from 9pm on the day preceding any public holiday until 5am on that statutory holiday. These are the times during which, having regard to past experience, illegal street racing is likely to occur.

15. Lastly, in relation to the second point it is considered that the limitation on the right of freedom of movement is justifiable in light of the objective. In this regard it is considered that the benefits of the measure, namely the elimination of the problems referred to above, outweigh the negative but limited effects upon the general right to freedom of movement.

**Have you considered the legal implications of the issue under consideration?**

16. See above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

17. Aligns with the Transport and Greenspace activities by contributing to the Council's Community Outcomes – Safety and Community.

**Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

18. This contributes to improve the level of service for safety and access.

**ALIGNMENT WITH STRATEGIES**

19. Christchurch Road Safety Strategy and Safer Christchurch Strategy.

**Do the recommendations align with the Council's strategies?**

20. Aligns with the Road Safety and the Safer Christchurch Strategy.

**CONSULTATION FULFILMENT**

21. Consultation with Police has been carried out. The request has come from residents through the community boards. There is no knowledge of any opposition to this proposal.

**STAFF RECOMMENDATION**

It is recommended:

- (a) That the Council support option 3 and resolve, pursuant to clause 68A(4) of the Christchurch City Traffic and Parking Bylaw 1991, that the following roads be added to paragraph A of the Ninth Schedule of that bylaw:
- Barters Road
  - Hasketts Road from Barters Road to Old West Coast Road.
  - Leggett Road.
  - Roberts Road from a point 220m from Gilberthorpes Road to Pound Road.
- (b) That the abovementioned prohibitions come into effect on 19 July 2007.
- (b) That the Community Boards be informed of this decision.

## BACKGROUND (THE ISSUES)

22. In 9 July 2001 clause 68A of the Christchurch City Traffic and Parking Bylaw 1991 came into force. It provides:

### 68A PROHIBITION 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 sub clause (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;*
    - (e) *any vehicle operated by a security service.*
  - (3) *The Council shall erect signs on the roads described in the Ninth Schedule advising the times and days of the prohibition under sub clause (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.*
23. The Council resolved to include a number of industrial culs-de-sac in the Wigram area in the Ninth Schedule of the Bylaw. This had an immediate effect as the Police targeted these streets and the problem in these streets went away. However, this resulted in the problem being moved on to other areas.
24. In more residential areas like Colombo Street either side of Brougham Street and some newly developed hillside subdivisions where there is an expectation that light vehicles (vehicles under the 3,500 kg weight requirement of the Bylaw) will need to travel through, a different approach was taken. In these areas there was a parking ban implemented at night. This had a similar effect in moving the problem away from the area. The behaviours in these areas were different to those in the rural roads as “burn outs” were not the main problem, but other undesirable behaviour.
25. On Summit Road the Council installed physical structures in the areas where “burn outs” occurred. This was possible because the adjoining land was owned by the Council and the areas concerned were small. The physical features also acted as enhancements to the access points to walkway and mountain bike tracks in these areas.
26. Since clause 68A of the Bylaw was created, and the implementation of night time parking bans, there has been a number of national law changes that give the Police more powers to enforce ‘boy-racer’ problems. These include offences relating to loss of traction and racing, and an increase in the fine for operating a noisy vehicle from \$150 to \$200 and more importantly the allocation of demerit points to offenders. The Government is currently developing a stationary objective noise test for vehicles to help eliminate the noise problems created by the fitting of modified exhaust systems. Currently the subjective noise test states “*The noise from an exhaust system must not be noticeably and significantly louder than it would have been when the motor vehicle was manufactured with its original exhaust system*”. This is seen as being too open to interpretation. Other powers allow enforcement of uncertified vehicle modifications.

27. It was hoped that these measures would be sufficient for the Police to deal with the problems created by “boy racers”, even to the extent of not needing clause 68A of the Bylaw and removing the Ninth Schedule altogether.
28. When Police made representations to the Riccarton/Wigram Community Board for the inclusion of various roads in the Bylaw it was not clear that this was the most appropriate method to deal with the problem. The Board was very supportive and other community boards were visited by Police. The list of roads grew rapidly with some residential streets being proposed.

*Riccarton/Wigram*

- Barters Road – Waterloo to Ruapuna
- Hasketts Road – Barters to Buchanans
- Leggetts Road – Hasketts to end
- Hasketts Road – to end
- Maddison Road –
- Barters Road – to Kirk Road
- Waterloo Road – Barters to Brixton
- Jones Road – Kent to Boundary
- Roberts Road –

*Fendalton/Waimairi*

- Pound Road
- Ryans Road
- Savills Road
- Guys Road
- Chattertons Road
- Miners Road
- McLeans Island Road
- Coutts Island Road
- Consevators Road
- Grays Road

*Shirley/Papanui*

- Kaianga Road
- Spencerville Road
- Lower Styx Road
- Husseys Road
- Coutts Island Road
- Blakes Road
- Guthries Road
- Dickies Road

**THE WAY FORWARD**

29. The first objective was to determine the problem to be addressed and the extent of this problem across the city.
30. After discussions with Police and residents it was determined that there were a number of problems being experienced by property owners. A letter from the Community Constable for this area confirms that the extent of these problems is considerably greater than those reported in other areas of the city. See Attachment 2.
- (a) **Disturbance:** The regular disturbance to residents trying to sleep and even the stress on stock caused by noisy exhaust systems and stereo equipment and the screaming of engines and wheel spinning late at night and the early hours of the morning.
- (b) **Smell:** The smell created by burnt tyre rubber, exhaust fumes and the diesel poured on the road.
- (c) **Intimidation:** The fear of leaving properties unattended at night and the necessity to be home before 10pm because these large groups of vehicles, (in excess of 200 vehicles parked across the frontage of properties) prevents access to people’s driveways. Drivers refuse to move to give access.

- (d) **Abuse:** The intimidation extends to oral abuse, threats of assault and broken windows on a number of occasions.
- (e) **Rubbish:** As well as the litter thrown from parked vehicles there is also the damage caused to the road surface when diesel is poured on it and burnouts carried out and the damage to grass verges.
- (f) **Road Safety:** The presence of in excess of 200 vehicles driven around the 'circuits' is intimidating enough, but when this is done at speed and the drivers are showing off, the situation presents a real safety hazard both for the participants and the public.
31. These problems are experienced to some extent throughout most parts of the city with boy racers spinning their wheels or the use of loud stereos. However, after discussions with Police, it was determined that the general issues across the city are nowhere near as bad as the few streets being addressed in this report. The sheer number of vehicles involved, the frequency and the fact that this has been happening for more than three years means that something has to be done. The Police carry out regular enforcement with little effect on the problem. They have requested the Council to extend the bylaw to cover these roads so that the problem can at the very least be moved out of this area.
32. Discussions with the Police have proven that the new powers that have been implemented due to recent law changes are not sufficient to deal with the problem in the Hasketts Road area. With the numbers of vehicles involved and the ability they have to congregate quickly using text messaging, the current national laws are not sufficient for the Police to deal effectively with the problem.
33. A night time parking ban was initially seen as being the best solution. However text messaging means that large numbers of vehicles can be notified of the imminent arrival of the Police and the spectators are mobile before the Police can issue offence notices. To be enforceable, parking signs would have to be installed at 100 metre spacings. It is likely that this type of signage would be vandalised making enforcement impossible.
34. The night time light vehicle ban is a more effective deterrent for this area as Police can enter a rural road from each end and process all the offending vehicles within that area. The Council is also looking at other ways it can assist the Police to be more effective in their operations. For example the installation of closed circuit television cameras in the problem areas would enable the Police to monitor these areas for the congregation of offenders and their vehicles.
35. There is however, the concern that the proliferation of the restricted areas will in fact affect legitimate road users, confuse tourists and create a bad image for Christchurch. Another issue is that it is inappropriate for the Council to create arterial roads and then ban light vehicles from using them at specified times. There are also civil rights issues if the number of roads upon which such restrictions were imposed were to increase significantly.
36. These issues have now been evaluated by the Council's Legal Team (see Legal Implications) and the way forward to introducing more roads to the Ninth Schedule has been cleared in this instance. Looking to the future, agreement with the Police has been reached where certain criteria should be met before including new roads into the Ninth Schedule. Those criteria are:
- That there is a known problem;
  - That the problem has persisted for a considerable period of time even though enforcement has been carried out;
  - That only key streets within an area are restricted in such a way as to eliminate the possibility of vehicles doing circuits;
  - That arterial roads are not included;
  - That the number of roads are limited even to the extent of removing roads from the Ninth Schedule after a few years to achieve this.
37. One of the issues with boy-racers is the large number of vehicles travelling at speed around roads doing circuits. A speed limit review is currently under way to see if it is appropriate, under the national requirements under setting of speed limits criteria, to lower the speed limits in the area west of the city between Main South Road and the Waimakariri River. The character of some of these roads has changed since last reviewed due to the introduction of lifestyle blocks. If it is appropriate to lower the speed limit this will make it easier for the Police to deal with the vehicles travelling at speed around circuits in the area.

## **THE OBJECTIVE**

38. The first objective was to determine the exact nature of the problem to be addressed and to obtain some measure of the extent of this problem across the city.
29. The second objective was to come up with an appropriate option to assist police to solve these problems.

## **THE OPTIONS**

### **Option 1: Maintain the Status Quo - Do Nothing**

30. With the improved legislation and upcoming objective noise testing, the Police could carry out enforcement without the use of the clause 68A prohibition or parking restrictions.
31. The benefits would be that the general public would not be affected, tourists would not be confused and there would be no signs that would create the image that Christchurch was an undesirable place after midnight.
32. The 'do nothing' option will only see the problem grow and residents in the Hasketts Road area live in fear at night, which is not an option.

### **Option 2: "No Stopping" Parking Restriction at Night**

33. This has been very successful in residential and commercial areas but is unlikely to solve the problem in the Hasketts Road area for two reasons.
  - Owing to the remoteness of the area, participants in these large groups of vehicles are likely to remove the signs.
  - With text messaging it is likely that the spectators parked to watch the 'burn outs' would have moved on before the Police could issue infringement notices.
34. This option is therefore not seen as a solution in this instance.

### **Option 3: Light Vehicle Ban at Night on Selected Roads**

35. This option is seen as the preferred option as it will be the easiest for Police enforcement in this area. It does not create a bad image for Christchurch as it is only in a small number of selected roads where there has been a long term ongoing problem.
36. It would not be implemented on major traffic routes such as arterial roads. The chosen roads have been selected to enable effective enforcement by Police. The Police will be able to enter the roads from each end in order to target persons breaching the prohibition. Imposing the ban on the roads in question will effectively prevent boy racers from using those roads and other adjacent roads as a race circuit. Roads can be removed from the Ninth Schedule after a few years in order to limit the number of roads being subject to such prohibitions. The Police agree that this is the best option.

### **Option 4: Light Vehicle Ban on all Roads Where Illegal Street Racing Occurs**

37. Although residents of specific roads who have experienced the effects of boy racer behaviour may see this as being the best option, it would create the wrong image for Christchurch. It would be contrary to the City Plan roading hierarchy if arterial roads were included. It is also highly likely that it would contravene the provisions of the New Zealand Bill of Rights Act 1989.

### **Option 5: Placement of Physical Structures**

38. Although this was successful on the Summit Road, the placement of physical structures in the Hasketts Road area is not practical as it involves long lengths of rural road grass verges. This would make it excessively expensive. The fact that this problem is likely to move to another area would mean that there would be ongoing costs which can not be justified.

## **CONCLUSION**

39. After discussions with Police, Option 3 was considered to be the most effective, while still meeting the requirements of the City Plan and complying with the provisions of the New Zealand Bill of Rights Act 1989. The specific road chosen to meet these requirements were:

- Barters Road
- Hasketts Road
- Leggett Road
- Roberts Road

40. These roads are more particularly detailed on Attachment 1.

## **THE PREFERRED OPTION**

41. Option 3: Light Vehicle Ban at Night on Selected Roads is the preferred option.