## 7. PROPOSED KILMORE STREET CYCLE LANE AND THE CHRISTCHURCH CITY COUNCIL TRAFFIC AND PARKING AMENDMENT (KILMORE STREET) BYLAW 2009

| | |
|---|---|
| **General Manager responsible:** | General Manager City Environment, DDI 941-8608 |
| **Officer responsible:** | Transport and Greenspace General Manager |
| **Author:** | Peter Barnes, Transportation Consultation Leader |

### PURPOSE OF REPORT

1. The purpose of this report is to seek the Council's approval to commence the Special Consultative procedure recommending the commencement of a statutory special consultative procedure for the establishment of a cycle lane on both sides of Kilmore Street between Fitzgerald Avenue and Madras Street, and to make a bylaw to amend the Christchurch City Council Traffic and Parking Bylaw 2008.

2. This report went before the Council meeting of 27 November 2008. The Council resolved to send this report to the Hagley Ferrymead Community Board for its consideration and Part A recommendation to Council. The Hagley/Ferrymead Community Board is meeting on Wednesday 17 December 2008. A recommendation will be forwarded prior to the Council meeting on 19 December 2008.

### EXECUTIVE SUMMARY

2. The proposal is to create a Special Vehicle Lane (Cycle Lane) on both sides of Kilmore Street between Fitzgerald Avenue to Madras Street. In order to do this it will be necessary to amend Schedule 2 of the Christchurch City Council Traffic and Parking Bylaw 2008 (the Bylaw) which came into force on 1 July 2008.

3. Under the Council's bylaw making powers in section 72(1) (kb) of the Transport Act 1962, a special vehicle lane can only be created by specifying the road on which the lane is on in a bylaw. To ensure that the proposed cycle lane can be enforced it needs to be specified by inclusion in Schedule 2 of the Bylaw. Any amendments to a bylaw can only be done by way of the special consultative procedure.

4. Kilmore Street is a "minor arterial road" used by approximately 9,500 vehicles per day. In the five year period between 2002 and 2006 there were two reported cycle accidents in this section of Kilmore Street.

5. Data from cycling surveys carried out between 2003 and 2006 show that this section carries between 300 and 450 cyclists per day and is one of the busiest cycling routes in Christchurch. From issues raised to the Council Cycling Transport Planner, there is anecdotal evidence that, due to the existing traffic lane and parking layout, the Kilmore Street/Barbadoes Street intersection is one of the most dangerous intersections in Christchurch.

6. The length of road within this cycle lane project has adjacent land uses split between retail, commercial and residential. The figures indicate that Kilmore Street is a well used part of the network and there is a clear need to provide facilities for the cyclists using this road.

7. The Council's Cycling Strategy 2004 aims to create a cycle friendly city with the three objectives of increasing cycling, increasing the enjoyment of cycling and improving the safety of cycling in Christchurch. The Strategy recognises the need to consider the National Engineering Design Guide when developing a cycle network for Christchurch and that enhancing the physical environment is a key method towards achieving the Strategy objectives.

8. The provision of an improved physical cycling environment is also aligned with the New Zealand Land Transport Strategy and the National Walking and Cycling Strategy. The cycle network is made up of a mix of on-road and off-road cycle routes and the priority of provision is determined by many factors including cycle usage levels, reported cycle accidents and cyclist concerns.

9. Opportunities are also taken to coordinate cycle lane construction with other road network improvement projects such as road reconstructions, kerb and channel renewal, safety improvements etc to create a network of continuous routes for existing use and anticipated future growth.

10. **Attachment A** is a statement of proposal (including the proposed Traffic and Parking Amendment (Kilmore Street) Bylaw 2009) and **Attachment B** is a summary of information, as required under the Local Government Act 2002, for formal approval by the Council.

11. The process for making the Amendment Bylaw (which will amend Schedule 2 of the Traffic and Parking Bylaw 2008) is as follows:

    (a) The Council resolves that the Amendment Bylaw is the most appropriate way to address the perceived problems (which are identified below), the bylaw is in the most appropriate form, and that there are no inconsistencies with the New Zealand Bill of Rights Act (See recommendations below);

    (b) The Council approves the statement of proposal and summary of information and publicises it for public submissions, and appoints a hearings panel to hear submissions (See recommendations below);

    (c) The special consultative procedure will be from Monday 12 January 2009 to Friday 13 February 2009;

    (d) If any submitters wish to be heard, hearings will take place during the week beginning 9 of March 2009; and

    (e) The Council will then receive a report from the hearings panel to consider the recommendations of the panel, and adopt the Amendment Bylaw (**Attachment A**). Construction of the cycle lane may then take place.

**FINANCIAL IMPLICATIONS**

12. Funding is provided in the Transport and Greenspace Capital Work Programme as follows.

    (a) Kilmore Street Cycle Lane for 2008/09 is $260,000

    (b) The funding for this project covers all costs from design and consultation through to construction and implementation.

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

13. Not affected by the proposed changes.

**LEGAL CONSIDERATIONS/SECTION 155**

14. Section 155 of the Local Government Act 2002 requires the Council to determine whether the making or amending of a bylaw is *"the most appropriate way to address the perceived problem".* The Council is also required to determine whether the bylaw is in the most appropriate form and that there are no inconsistencies with the New Zealand Bill of Rights Act 1990 (NZBORA).

*Appropriate way to address problem*

15. Kilmore Street is a "minor arterial road" used by approximately 9,500 vehicles per day. In the five year period between 2002 and 2006 there were two reported cycle accidents in this section of Kilmore Street. Data from cycling surveys carried out between 2003 and 2006 show that this section carries between 300 and 450 cyclists per day and is one of the busiest cycling routes in Christchurch. From issues raised to the Council Cycling Transport Planner, there is anecdotal evidence that, due to the existing traffic lane and parking layout, the Kilmore Street/Barbadoes Street intersection is one of the most dangerous intersections in Christchurch.

16. The proposed Kilmore Street cycle lane project (between Fitzgerald Avenue to Madras Street) is identified as part of Christchurch's Primary Cycle Network within the Council's full Cycle Network Plan for Christchurch. The proposed project supports the Council's Vision in the Cycling Strategy towards helping Christchurch to be a cycle friendly city and specifically assists in the targets of increasing cycling and making it safe to cycle. The figures above indicate that Kilmore Street is a well used part of the network and there is a clear need to provide facilities for the cyclists using this road.

17. The following options exist for the Council in relation to managing cycle use on Kilmore Street:

    (a) Status quo – ie: Do nothing. Make no specific provision and leave cyclists with the responsibility for moving and maintaining their own space within the road corridor and traffic flow.

        - This option is not preferred because it does not support the strategies identified in paragraph 26 of this report. This option does not provide any additional safety benefits for the high number of cyclists using this road.

    (b) Create an off-road cycle path or shared cycle/pedestrian path along all or parts of the route.

        (i) This option is not preferred because there is insufficient area to accommodate the shared path within the existing legal road boundary and property purchase would be required in some areas to achieve this option. The distribution of retail and commercial areas along the route and the high number of pedestrians associated with the activity and shops in this area poses potential conflict with a shared cycle/pedestrian path,

    (c) Provide a dedicated and marked cycle lane over the sections of Kilmore Street where this can be achieved without reducing the traffic capacity of the road; and, provide a space for cyclists to use by creating a clearway at peak traffic times (between 7am and 9am on Monday to Friday) on the Southern side of Kilmore Street between Dawson Street and the Fire Station, for increased safety of the cyclists as shown on **Attachment B**.

        (i) This is the preferred option. It provides the best compromise for the competing road space requirements as it allows space for cyclist safety, maintains traffic capacity at the peak traffic times and provides on-street parking near the businesses. This option is aligned to and meets the objectives in the Cycle Strategy, sustainable transport modes and provides additional safety benefits for cyclists in this section of Kilmore Street, and will require the creation of a special vehicle lane.

        (ii) Under the Transport Act 1962, the Council can only create special vehicle lanes by specifying the road on which the lane is on in a bylaw. The Local Government Act 2002 prescribes that making or amending a Bylaw can only be done by using the special consultative procedure.

        (iii) The Council's intention is to make an Amendment Bylaw to amend Schedule 2 of the Traffic and Parking Bylaw 2008 to include a cycle lane on both sides of Kilmore Street between Madras Street and Fitzgerald Avenue, which will address the problems of cycle safety on Kilmore Street as well as increasing the number of cyclists using Kilmore Street and will also mean there is a legally enforceable cycle lane on Kilmore Street.

*Appropriate form of bylaw*

18. The form in which the proposed Amendment Bylaw has been drafted is considered appropriate, in that specifying the road where the special vehicle lane will be and the approximate location in the road, is in accord with the format used in the proposed new second schedule in the amendment to the Traffic and Parking Bylaw 2008 which is currently out for consultation.

19. If a greater level of detail was specified then if any changes were made to the road in the future, which required the alteration of the special vehicle lane, and then each time that happened the bylaw would need to be amended. If the bylaw was not amended and the changes on the road were made, then that may make enforcement of the bylaw more difficult. The proposed new second schedule contains wording which provides that lanes will be marked as required/prescribed under the Land Transport legislation or at the officer's discretion in accordance with best practice guidelines.

***New Zealand Bill of Rights Act 1990 (NZBORA)***

20. The only provision of the NZBORA which has a bearing on the proposed amendment to the Bylaw is section 18, which provides that everyone lawfully in New Zealand has the right to freedom of movement. Creating special vehicle lanes provides a limitation on this right, but the limitation is considered to be a reasonable restriction in a free and democratic society, in accordance with section 5 of the NZBORA. Persons can still move around the city, and in fact creating cycle lanes may uphold another right under the NZBORA: freedom from discrimination (cycle lanes may provide a safe option for those who cannot drive cars because of a disability or age). Therefore there are no inconsistencies between the draft amended bylaw and the NZBORA.

***Legal requirements of a special consultative procedure***

21. The special consultative procedure under the Act requires that the Council prepare a statement of proposal that must include:

    "*(a) as the case may be,—*

    *(i) a draft of the bylaw as proposed to be made or amended; or*
    *(ii) a statement that the bylaw is to be revoked; and*
    *(iii) the reasons for the proposal; and*
    *(iv) a report on any relevant determinations by the local authority under section 155.*"

22. The Act also requires the Council to determine the form of the summary of information. Section 89(c) requires that it be distributed "*as widely as reasonably practicable (in such a manner as is determined appropriate by the local authority, having regard to the matter to which the proposal relates)..."* Section 83(e) of the Act also requires that the Council must give public notice of the proposal and the consultation being undertaken.

23. The proposed Amendment Bylaw concerns a road in one part of the Council's district. It is therefore proposed that the summary of information be distributed to all properties and businesses along the route and nearby properties in adjacent streets, and any absentee owners identified within the distribution area. The summary of information should also be sent to other relevant stakeholders, including Spokes, Taxi Federation, Transport Groups, and Resident Groups in the distribution area. Public notice of the proposal will be published in a local newspaper with a wide circulation in the Council's district. Copies of the consultation documents will be available from the Civic Offices, and all Council service centres and libraries.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

24. Yes.

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

25. Yes.

**ALIGNMENT WITH STRATEGIES**

26. The proposed cycle lane is aligned to the following strategies:

- Cycle Strategy 2004
- New Zealand Land Transport Strategy
- National Walking and Cycling Strategy
- Metro Strategy
- Sustainable Energy Strategy
- Physical Recreation and Sport Strategy
- Road Safety Strategy

**CONSULTATION FULFILMENT**

27. Internal consultation has taken place between relevant units. Details of the proposed Kilmore Street cycle lane were presented as a seminar at the Hagley/Ferrymead Community Board on 16 July 2008. The statutory special consultative procedure will follow the adoption of the recommendations of this report.

**STAFF RECOMMENDATION**

It is recommended that the Council:

(a) Resolve that the proposed Traffic and Parking Amendment (Kilmore Street) Bylaw 2009, amending the Christchurch City Council Traffic and Parking Bylaw 2008 and providing for special vehicle lanes (Cycle Lanes) on Kilmore Street, is the most appropriate way to address the perceived problems identified in paragraphs 15 to 17 of this report.

(b) Resolve that there are no inconsistencies between the amendments and the New Zealand Bill of Rights Act 1990, and that the draft amendments to the Bylaw are in the most appropriate form.

(c) Resolve that Council commence a special consultative procedure to make the Bylaw and that the attached Statement of Proposal (which includes the proposed Traffic and Parking Amendment (Kilmore Street) Bylaw 2009) and the Summary of Information be adopted for consultation and made available for public inspection at all Council Service Centres, Council libraries and on the Council's website, noting that the submissions will close at 5pm on Friday 13 February 2009.

(d) Determine that the Summary of Information be distributed to all properties and businesses along the route and nearby properties in adjacent streets and any absentee owners identified within the distribution area, as well as to other relevant stakeholder groups, including Spokes, Taxi Federation, Transport Groups, and any Resident Groups in the distribution area.

(e) Resolve that public notice of the proposal be published in a newspaper having a wide circulation in the Council's district.

(f) Appoint a hearings panel to consider submissions on the proposed Traffic and Parking Amendment (Kilmore Street) Bylaw 2009, during the week beginning Monday 9 March 2009.

(g) Note that this report is included in the Council agenda of 19 December 2008.

(h) Note that, in order to meet the consultation and hearing timetable outlined in the Statement of Proposal and the Summary of Information, staff advise that the Board's recommendation will be forwarded to the 19 December 2009 Council meeting by way of memorandum from the Community Board Advisor.

**HAGLEY/FERRYMEAD COMMUNITY BOARD RECOMMENDATION**

This will be forwarded to the Council on 18 December 2008.

**BACKGROUND**

**THE OBJECTIVES**

28. The primary (must do) objectives for the project are as follows:

    1. Improve facilities to enhance safety for cyclists.

        - Dedicated and marked cycle lanes have been provided on both sides of Kilmore Street for the majority of this section. Where a dedicated and marked cycle lane is not included, a clearway is proposed to provide space for cyclists to ride in. Street signage and road markings will also be improved along this section to enhance the safety for cyclists.

    2. Ensure that street lighting and signage is adequate for facilities provided.

        - A lighting assessment has been undertaken by Connetics and the upgrade recommendations have been included in this project. The proposal also improves the signage and street markings for all road users throughout this section to provide safe and efficient movement of traffic.

29. The secondary (would like to do, but add cost) objectives for the project are as follows in priority order:

    1. Maintain level of service for other road users (all modes).

        - The proposal provides the best compromise for the competing road space requirements when considering all road users. It provides marked cycles lanes or space for cyclist safety, provides traffic capacity to cater for peak traffic flows, provides on-street parking near the businesses in business hours and includes a new pedestrian island to improve pedestrian safety.

    2. Improve environment for pedestrians where possible.

        - A pedestrian island is included to provide safe refuge for pedestrians and cyclists following the path running alongside Oxford Terrace and the Avon River.

30. Key features of the proposed Kilmore Street Cycle Lane are as follows:

    - Provision of a continuous and marked eastbound cycle lane on Kilmore Street between Madras Street and Fitzgerald Avenue.
    - Provision of a west bound marked cycle lane on Kilmore Street between Madras Street and Fitzgerald Avenue, apart from the 235m section between Dawson Street and the Fire Station.
    - Provision of space for cyclists to ride in when travelling west on Kilmore Street between Dawson Street and the Fire Station. This is achieved by creating a parking clearway between 7am and 9am on Monday to Friday over this section – see below for further explanation of the Clearway.
    - Improved street signage and road markings to provide clear and safe instructions for all traffic movements. This includes the addition of a variable overhead sign to indicate the traffic lane layout through the clearway section and an increase in cycle lane road markings.
    - Rationalisation of the parking layout and restrictions to maximise parking and accommodate the clearway. Approximately five parking spaces will be gained on the south eastern corner of the Kilmore Street/Barbadoes Street intersection.
    - Inclusion of a 2.0m wide physical island to the east of the Kilmore Street Bridge, with a wide cut-through to provide safe refuge for pedestrians and cyclists following the path running alongside Oxford Terrace and the Avon River.
    - Inclusion of a 1.5m wide flush median between Fitzgerald Avenue and No. 260 Kilmore Street.
    - Complete construction within 2009/10 financial year.

**Clearway Explanation**

31. A clearway is proposed on the south side (westbound lane) of Kilmore Street between Dawson Street and the Fire Station (approximately 235m). There are several competing requirements for road width on this section of Kilmore Street and only a limited road width available. These are:

    - peak traffic demands on this section are between 7am and 9am and two westbound traffic lanes are required over this time;
    - on-street parking demands to support the businesses in this area. Note: most of these businesses open after 9am; and,
    - there is the need to provide sufficient road space so it is safe for cyclists to ride through this section.

32. The clearway design provides the best compromise for all road users over this section of road.

**Clearway Operation**

33. Between 7am and 9am on Monday to Fridays, when the clearway is operating, there will be no kerbside parking on this section of Kilmore Street. This creates sufficient space for two westbound traffic lanes and a cyclist to ride adjacent to the kerb through this section.

34. For the rest of the time, between 9am and 7am, when the clearway is not operating, there will be kerbside parking along this section, only one westbound traffic lane and a space for cyclists to ride between the parked cars and the traffic lane.

35. An automated hinged gantry sign will be erected at the start of this section and will display the lane layout.

**THE PREFERRED OPTION**

36. Commence the special consultative procedure to make the recommended amendments to the Bylaw.