

13. PROHIBITION TIMES ON ROADS

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PURPOSE OF REPORT

1. The purpose of this report is to:
 - Provide a response to the Council's request with respect to a deputation from the Chairperson of the Fendalton/Waimairi Community Board
 - Provide information on the Mayor's emergency powers that were used over the Christmas period.
 - Seek Council approval for more long term measures.

EXECUTIVE SUMMARY

2. At the 13 December 2007 Council meeting the Chairperson of the Fendalton/Waimairi Board, Val Carter, presented a deputation requesting Chattertons Road and McLeans Island Road be added to the Ninth Schedule of the Christchurch City Traffic and Parking Bylaw 1991.
3. This was due to the request made by a deputation to the Community Board and concern from Orana Park for the safety of animals due to the behaviour of 'boy racers' that gathered in this area.
4. At that meeting staff answered questions from the Council and it was clear that the process of including these two roads in the Ninth Schedule was not straight forward. It was therefore resolved *"That the Council ask staff to report back on the safety problems regarding McLeans Island, especially in the area of Orana Park"*.
5. Since the council meeting the Police have contacted the Mayor expressing concern that the Christmas holiday period was seen as being an ideal time for greater 'boy racer' activity in this area.
6. Investigations by the Legal Services Unit discovered that on receipt of a formal request from the Police, indicating that there was a high probability of *"Civil disobedience"* in a specific location, the Mayor could invoke special emergency powers that would allow the "light vehicles ban at night" to be implemented in that location for a limited period sufficient to allow the formal process to be undertaken. Because of the delays that the Christmas break was going to cause, these emergency powers were used to implement a "light vehicles ban at night."
7. Because of the high probability of civil disobedience the issue relating to the New Zealand Bill of Rights Act did not apply to these emergency procedures.
8. In addition to this, the Police were of the opinion that if the signs were erected on Chattertons Road and McLeans Island Road that civil disobedience would also occur on:
 - Dickeys Road
 - Miners Road
 - Kainga Road
 - Lower Styx Road
 - Spencerville Road
9. All these roads were listed in the original submission to Council by the Community Boards in June 2007.
10. Signs banning light vehicles at night were installed on all of these roads, commencing 10 pm Friday 21 December 2007 and ending 5 am Monday 10 March 2008. (See Attachments 1 and 2).
11. This report discusses the options available to deal with the "boy racers" issues on the roads currently covered by the signs installed under the Mayor's emergency powers.

12. In addition to these seven roads the Riccarton/Wigram Community Board have concerns about 'boy racer' problems on McTeigue Road and Wilmers Road.

FINANCIAL IMPLICATIONS

13. The cost to install and maintain the twelve signs under the emergency powers was \$15,000. The cost to relocate these signs and install "no stopping" at night signs in the remaining roads is estimated to be in the order of \$60,000. A staged implementation is recommended to minimise the total costs as this work has to be funded out of existing operational budgets.
14. There is also likely to be a high ongoing maintenance cost for these signs due to their remote locations and the behaviour of people these signs are targeting.
15. Any significant longer term physical works would have to be separately funded.

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

16. Installation of these traffic signs is not specifically allowed for but will have to be managed with the LTCCP Streets and Transport operational budgets.

LEGAL CONSIDERATIONS

17. 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".
18. 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.
19. 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:
 - *"18(1) Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand."*
20. "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.
21. 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."*
22. 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.

23. 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.
24. 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.
25. 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.
26. 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.
27. The Christchurch City Traffic and Parking Bylaw 1991, clause 4, enables the Council to impose parking or stopping restrictions on roads controlled by the Council. This is carried out in accordance with the Land Transport Rule Traffic Control Devices 2004 Part 12.1 "Requirement to indicate prohibition on stopping" and Part 12.2 "Means of indicating prohibition on stopping".

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

28. See above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

29. Aligns with the Streets and Transport 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?

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

ALIGNMENT WITH STRATEGIES

31. Christchurch Road Safety Strategy and Safer Christchurch Strategy.

Do the recommendations align with the Council's strategies?

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

CONSULTATION FULFILMENT

33. Consultation with Police, Ministry of Transport, and Land Transport NZ has been carried out. The request originally came from residents through the Community Boards. There is no knowledge of any opposition to these proposals.

STAFF RECOMMENDATION

It is recommended:

- (a) That the Council 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 the Bylaw:
- Miners Road
 - McTeigue Road
 - Wilmers Road
 - Dickeys Road
- (b) That the stopping of vehicles be prohibited at any time on both sides of the following roads between the hours 10 pm and 5 am seven days a week:
- McLeans Island Road from Chattertons Road for a distance of 5.2 km in a southerly direction generally.
 - Spencerville Road commencing at a point 1.9 kilometres from Lower Styx Road and extending in an Westerly direction generally for a distance of 1.3 kilometres (at Farrells Road intersection).
- (c) That the stopping of vehicles be prohibited at any time on both sides of the following roads between the hours of 10 pm and 5 am 7 days a week, at the discretion of the Transport and Greenspace Manager:
- (i) Chattertons Road from Old West Coast Road to McLeans Island Road.
 - (ii) McLeans Island Road from a point 5.2 km south of Chattertons Road to Pound Road.
 - (iii) Spencerville Road from Lower Styx Road for a distance of 1.9 km in a westerly direction generally.
 - (iv) Spencerville Road from Main North Road to Farrells Road.
- (d) That the emergency measures put in a place over the Christmas holiday period be allowed to lapse at the end of the temporary measures that finish on 5 am Monday 10 March 2008 in the following roads:
- Chattertons Road from West Coast Road to Old West Coast Road
 - Kainga Road
 - Lower Styx Road

BACKGROUND (THE ISSUES)

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

CLAUSE 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 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.*
35. The Council resolved to include a number of industrial cul-de-sacs in the Wigram area in the Ninth Schedule of The Bylaw. This had an immediate affect 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.
36. More recently on 21 June 2007 the Council considered a list of roads that Community Boards had requested to be added to the Ninth Schedule. These roads are scheduled below:

Riccarton/Wigram

- Barters Rd – Waterloo to end
- Hasketts Rd – Barters to end
- Leggetts Rd – Hasketts to end
- Maddison Rd – Barters to Kirk
- Waterloo Rd – Barters to Brixton
- Jones Rd – Kent to Boundary
- Roberts Rd

Fendalton/Waimairi

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

Shirley/Papanui

- Kainga Rd
- Spencerville Rd
- Lower Styx Rd
- Husseys Rd
- Coutts Island Rd
- Blakes Rd
- Guthries Rd
- Dickeys Rd

37. Clause 68A was specifically formulated to address antisocial behaviours that were occurring in industrial roads, the majority of which were cul-de-sacs or roads with no through traffic.
38. The roads scheduled above are not industrial roads that clause 68A was designed to address. These roads are semi-rural or “lifestyle” in nature.
39. This presented a range of new issues that had to be addressed before these roads could be added to the Ninth Schedule.
40. A key issue which had to be considered at that time was whether or not the proposal to add these roads to the Ninth Schedule would be inconsistent with the provisions of the New Zealand Bill of Rights Act 1989. (see LEGAL CONSIDERATIONS)
41. The report carefully considered the issues and after further discussions with the Police and evaluations by the Council’s legal team, four roads out of the original twenty five roads submitted to the Council by the boards were added to the Ninth Schedule. (See Attachment 3.) These four roads were the only ones that met all the necessary criteria, and are: -
 - Barters Rd
 - Hasketts Rd
 - Leggett Rd
 - Roberts Rd
42. The criteria as set out in that report were:
 - 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.
43. These four roads had experienced long term (3-4 years) issues where regular Police enforcement had not removed the problems and that residents were in effect being held hostage in their own homes on Thursday, Friday and Saturday nights.

44. Although they are through roads, there are adequate alternative routes in the area for the general public to use.
45. A careful weighing up of the effects of this behaviour on the residents and the rights of ordinary people to travel along these 'through' roads had to be undertaken.
46. Because of the severity of the problems in these four roads the balance went in favour of adding them to the Ninth Schedule.

THE OBJECTIVES

47. There are many streets in Christchurch where tyre rubber is laid on the road surface on a regular basis as evidence of "boy racer" activities. The Council also receives many calls from residents experiencing speeding traffic.
48. The objective is to determine the severity of the problem and to implement the most appropriate measures to counteract that problem.
49. The following roads are addressed in this report:-
 - McLeans Island Rd
 - Chattertons Rd
 - Dickeys Rd
 - Miners Rd
 - Spencerville Rd
 - Kainga Rd
 - Lower Styx Rd
 - McTeigue Rd
 - Wilmers Rd
50. These roads were the ones the Police considered had a problem or where the problem would move to after the installation of signs, with the addition of McTeigue Road and Wilmers Road.

THE OPTIONS

(a) Light vehicle ban at night

- Where the criteria is met roads can be closed to motor vehicles weighing less than 3,500 kilograms on Thursday, Friday, Saturday and Sunday nights and statutory holidays by including them in the Ninth Schedule and the installation of signs.
- This was initially done in industrial cul-de-sacs in the Hornby area with great success. More recently this option has been used for roads in the Hasketts Road area. (See Attachment 3.)

(b) "No Stopping" at night

- "Boy Racer" behaviours are promoted by large numbers of spectators watching on from parked vehicles (numbering up to 300 vehicles).
- The installation of "no stopping" signs from 10 pm to 5 am has proven very effective for residential areas or where through traffic is essential. This was used in Colombo Street either side of Brougham Street and the problems disappeared. It has also been used in newly developed hillside subdivisions where people have not yet moved into their houses with similar success.
- This is a viable option for situations where the criteria can not be met for "light vehicle ban at night."
- The ongoing maintenance costs for these signs are expected to be high due to the remote locations and the behaviour of the people these signs are targeting.

(c) **Physical Works**

- In residential areas the installation of traffic calming measures has been very successful in slowing the average speed of traffic. However, the construction of “speed humps,” “platforms” and “chicanes” has often attracted “boy racers” as these structures become a challenge. These structures are often used as a part of a regular “circuit.” The “boy racers” also use these structures to back their vehicles up against or on top of to do “burnouts.”
- However, on the Summit Road where “burnouts” were regularly carried out in the car parking areas, physical structures in the form of landscaping with tussocks and rocks virtually eliminated the problem. The Council owned the adjoining land and landscaping enhanced the access to the many tracks in these areas. This sort of treatment can be done in addition to the two options above.

(d) **Do Nothing Option**

- Since clause 68A of the Bylaw was created there has been a number of law changes that give the Police more powers to enforce ‘boy racer’ problems. Offences relating to loss of traction and racing were enacted and the fine for operating a noisy vehicle went from \$150 to \$200. Demerit points were also added to the operation of noisy vehicles. Later this year a new objective noise test is expected to become law. The Christchurch City Council was instrumental in initiating these law changes through the system. New breach of licence rules which will also assist Police are expected to come into force this year also. The do nothing option is a viable option when Police enforcement can control the problem or the problem is not sufficient to justify one of the other options.

DISCUSSION

51. On the inspection of the nine roads, it was found that the worst area for tyre marks and diesel was in McLeans Island Road in close proximity to Orana Park.
52. To a lesser extent there were obvious signs of “boy racer” activity in Spencerville Road.
53. Both these areas have surrounding forest like environments and therefore posed the real threat of fire.
54. Some of the other nine roads had an occasional tyre mark.
55. It was also observed that some of these roads had little or no private dwelling accessing them.
56. There is a concern that continually moving these “boy racer” activities onto other areas will eventually lead to them moving into more residential areas.
57. There is also the concern of large numbers of roads having “light vehicle ban at night” may make some residents of Christchurch frightened to cross the city at night or give tourists the impression that Christchurch is an unsafe place due to the night time “curfew.”
58. Because of this, it is recommended that only the areas with the actual problem be addressed and a process put in place to deal with locations when a problem occurs.

McLeans Island Road

- (a) There is obvious sign of regular “boy racer” activities in McLeans Island Road in the area between Orana Park and the Caravan Park.
- (b) Because McLeans Island road is designated a “collector” and is a desire line for people including tourists with no nearby alternative, it is not appropriate to maintain the “light vehicle ban at night.” There are no private residences in this area.

- (c) It is recommended that a “no parking at night” restriction be installed on Pound Road in the area between the stop bank west of Lady Isaacs and Chattertons Road. Because of the probability of this behaviour moving closer to the city after the installation of the no parking signs, it is proposed that the Council approve a “no parking at night” in the section of McLeans Island Road from the stop bank west of Lady Isaacs to Pound Road with the signs to be installed at the discretion of the Transport and Greenspace Manager after discussions with the Police to confirm the need.

Chattertons Road

- (a) Chattertons Road between McLeans Island Road and Old West Coast Road is a “minor arterial” road. There are occasional tyre marks with a small concentration near the Clay Target Gun Club. The only private residence is at the corner of Old West Coast Road. “boy racers” have used this area previously, but Police confirm there is not so much activity in Chattertons Road currently.
- (b) Logically this would not have any restrictions installed until a more serious problem occurred. However, the installation of “no parking at night” in McLeans Island Road would probably move the problem into Chattertons Road. It is therefore recommended that a “no stopping at night” be approved by the Council but that the signs only are installed at the discretion of the Transport and Greenspace Manager after discussions with the Police to confirm the need.
- (c) Chattertons Road between Old West Coast Road and West Coast Road is a “local” road and has a concentration of “lifestyle” properties. There are no obvious signs of “boy racer” activities. Until such time as a significant long term “boy racer” problem has been established, it is recommended that the Council “do nothing.” (See Attachment 4.)

Dickeys Road

- (a) Dickeys Road is designated a “collector” road and provides access to Coutts Island Road, the Waimakariri River and the stop banks. At night the Canterbury Regional Council restrict access by gating off the River and stop banks due to other undesirable behaviour. This means that there is no through traffic at night. There are a number of residential properties in Dickeys Road and Coutts Island Road but the people living there and their visitors are exempt from a “light vehicle ban at night.” It is therefore recommended that Dickeys Road be added to the Ninth Schedule of the Bylaw (i.e. “light vehicle ban at night,” see Attachment 5).

Miners Road

- (a) Miners Road is a “local road” and has a number of residences along its length. Although there is little obvious sign of “boy racer” activities, there is no need for other than residents and their visitors to use these roads at night. It is therefore recommended that Miners Road be added to the Ninth Schedule of the Bylaw (i.e. “light vehicle ban at night,” see Attachment 4).

Spencerville Road

- (a) Spencerville Road is designated a “collector road” and there is no nearby alternative for access to the residential areas of Brooklands and Spencerville, plus tourists accessing Spencer Park. It is therefore not appropriate to install a permanent “light vehicle ban at night.” Because there is an obvious “boy racer” problem in Spencerville Road it is recommended to install a “no stopping at night” in the affected area. It is also proposed to ask the Council to approve the installation of “no stopping at night” either side of the affected area with the signs being installed at the discretion of the Transport and Greenspace Manager. (See Attachment 5.)

Kainga Road

- (a) Kainga Road is designated a "Collector" road. There is no nearby alternative for the residents of Stuarts Gully and Brooklands who do not front Kainga Road. These areas are developing rapidly and a "light vehicle ban at night" is not appropriate. There are residences along the majority of its length. There are no obvious signs of "boy racer" behaviour. Kainga Road is approximately 4.5 km long. A "night time parking ban" would require large numbers of signs to be installed and maintained. Until such time as a significant, long term "boy racer" problem has been established it is recommended that Council "do nothing." (See Attachment 5.)

Lower Styx Road

- (a) Lower Styx Road is designated a "minor arterial" road from Marshland Road to Heyders Road. Lower Styx Road from Heyders Road to Kainga Road is designated "collector." It therefore has an important function of access from the City to Spencerville and Brooklands and Spencer Park the Beach and recreational areas. There are numerous residential properties fronting Lower Styx Road with few uninhabited areas where "boy racer" activity would be expected. On inspection, there were no obvious areas where a "long term" problem existed. It is not appropriate to maintain the "light vehicle ban at night" and installing a "no stopping at night" in the areas where residents were not directly affected would be messy and expensive. Until such time as a significant long term "boy racer" problem has been established it is recommended that the Council "do nothing." (See Attachment 5.)

McTeigue Road

- (a) The Riccarton/Wigram Community Board has requested that McTeigue Road be considered for inclusion in the Ninth Schedule. The "boy racer" activities are reported to occur at the bend half way along McTeigue Road or towards Carrs Road. Diesel has been used on the road and although the problem is not that obvious, the Police have confirmed that there has been a long term problem. McTeigue Road is a "local" road and there are alternative routes for the general public who wish to travel through this area at night. There are a number of residences fronting McTeigue Road mainly between Halswell Junction Road and the bend. Because McTeigue Road complies with the criteria, it is recommended that it be added to the Ninth Schedule (i.e. light vehicle ban at night, see Attachment 6).

Wilmers Road

- (a) Wilmers Road is a "local" road with alternative access nearby for the general public. There are a small number of residences fronting Wilmers Road. It was the Police that indicated that there were problems in Wilmers Road when they were contacted about McTeigue Road. The SPCA had reported vandalism over a long period of time. Again the problem is not that obvious but the Police have confirmed that there has been a long term problem. Wilmers Road also complies with the criteria so it is recommended that it is added to the Ninth Schedule (i.e. "light vehicle ban at night," see Attachment 6).