

6. VEHICLES GIVING WAY TO BUSES

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PURPOSE OF REPORT

1. The purpose of this report is to advise the Council in relation to its resolution of 12 June 2008 requesting a report *“on a possible bylaw to require private vehicles wishing to move into the traffic flow to give way to buses when on service”*.

EXECUTIVE SUMMARY

2. The Council’s bylaw making powers under the Transport Act 1962, the Local Government Act 1974, and the Local Government Act 2002 do not provide for the Council to make a bylaw that could require motor vehicles to give way to buses.
3. An amendment to the Land Transport (Road User) Rule would be required, as it is this piece of legislation which sets requirements for road users and in particular, requirements relating to when drivers of vehicles must give way.
4. A number of submitters to the Land Transport Rule: Omnibus Amendment 2007 raised the issue of priority for buses departing from bus stops. It was suggested that in addition to priority for buses, the buses should be required to have a sign affixed, which would also require amendments to the Traffic Control Devices Rule. If a rule was added to part 4 of the Road User Rule, requiring motorists to give way to buses departing from bus stops, then there would be no need for signs on buses.
5. The Council did not include a submission in relation to bus priority in its submission on the Omnibus Amendments. Consultation on this amendment closed on 14 September 2007 and amendments to various rules came into force on 17 January 2008. Although the rules state that *“[i]ssues identified in submissions were taken into account in redrafting this rule before it was submitted to the Minister for Transport Safety for signature”*, no amendments were made relating to buses.
6. There is a new amendment to the Road User Rule which will soon be out for consultation and it is suggested that the Council’s submission on that amendment include a submission on an amendment to part 4 of the Rule, to provide for a new give way rule requiring drivers to give way to buses pulling out of bus stops.

FINANCIAL IMPLICATIONS

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

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

8. Not applicable.

LEGAL CONSIDERATIONS

9. Section 72 of the Transport Act 1962 provides a bylaw making power that the Council can use to make bylaws in relation to the use of roads. The section covers such matters as establishing one way streets, making bylaws relating to the stopping, standing or parking of vehicles, the turning of vehicles, providing for special vehicle lanes and for the parking of heavy motor vehicles, among other things. Section 72 does not provide any bylaw making power in relation to vehicles giving way in any situation.
10. Section 684 of the Local Government Act 1974 also contains bylaw making powers in relation to roads. However, these provisions are aimed more at things on or around roads rather than the use of roads or the use of vehicles on roads.

11. Section 145 of the Local Government Act 2002 contains general bylaw making powers which include for the purpose of protecting the public from nuisances, and maintaining public health and safety. It does not seem likely that providing in a bylaw that vehicles must give way to buses is something that relates to protecting the public from a nuisance or relating to health and safety. In addition, as other legislation providing bylaw making powers are more specific to roads, and if a power is not provided for in those provisions, then it is unlikely that the provisions of section 145 could be used to provide for such a bylaw.
12. The Land Transport Act 1998 and its accompanying Rules are the means by which a power could be provided for to require motor vehicles to give way to buses. Part 4 of the Land Transport (Road User) Rule 2004 deals with stopping and giving way, including giving way where vehicles are controlled by a stop sign or give way sign, where there are intersections controlled by traffic signals, giving way when entering or exiting driveways and approaching and entering intersections and roundabouts. Rule 4.7 is particularly relevant – this provides that a driver must not impede the progress of any light vehicle. It appears that instead of a new bylaw an amendment to the Road User Rule should be sought to require that drivers must give way to a bus when it is on service/pulling out of a bus stop.
13. Last year the Council made a submission on the Land Transport Rule: Omnibus Amendment 2007. The Council's submission did not include a suggestion for a "bus priority" rule, but several other submitters did (IPENZ and TRAFINZ in particular, and Dunedin City Council with a more general submission). The IPENZ and TRAFINZ submissions suggested that in addition to buses having priority (it was not stated in their submissions how that should come about in the Rules), buses should be required to have a sign affixed "*in order to form the legal obligation for the motorist who is required to give way*". The submissions noted that this would require the descriptions and dimensions of such a sign to be included in the Traffic Control Devices Rule.
14. However, if a rule was simply added requiring motorists to give way to buses departing from bus stops, in part 4 of the Road User Rule, then there would be no need for a sign on the bus to form the legal obligation on a motorist.
15. In addition, the Canterbury Regional Land Transport Committee has also looked at this issue. In a report considered by them on 20 June 2007, examples of rules in other jurisdictions were discussed, as well as the lack of a rule in New Zealand. There was no discussion in the report that a bylaw might be used to require that drivers give way to buses. The Committee received the report and resolved that it agreed in principle to support "*a change to the road user rules that would require motorists to give way to buses especially when leaving bus stops*". The Committee may have followed this up with a submission on the Road User Rule but it is not clear.
16. Consultation on the omnibus amendment closed on 14 September 2007 and the provisions in the draft Omnibus Amendment Rule were divided into 10 separate amendment rules, including amendments to the Traffic Control Devices Rule and the Road User Rule (both adopted on 11 December 2007 and in force on 17 January 2008). Schedule 2 of the Road User Amendment Rule, sets out a statement of the extent of consultation carried out, and notes that "*[i]ssues identified in submissions were taken into account in redrafting this rule before it was submitted to the Minister for Transport Safety for signature*". However, no amendment was made to either Rule relating to buses.
17. The Council is not prevented from writing to the New Zealand Transport Agency with a submission on this matter at any time; however, it is more likely that proper consideration would be given to a submission in the context of a formal consultation. The Land Transport New Zealand website (as of 31 July 2008) notes that there is a further amendment to the Road User Rule which will soon be out for consultation as follows:

Road User Amendment (Rule 61002/2)	Will implement miscellaneous Road Safety 2010 safety intervention recommendations. It will also include other, smaller changes that are nevertheless of sufficient public interest to not form part of an Omnibus Amendment Rule, for example, speed limits when towing with a rope.	Yellow phase Rule being drafted for public consultation.
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16. Although bus priority is not a specific topic under the consultation this is a specific amendment to the Road User Rule, rather than an omnibus amendment of a number of rules, which may give greater scope for other amendments to the rule to also be adopted. It is suggested that the Council make a submission for an amendment to the Road User Rule, part 4 as part of a submission on this consultation.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

7. Not applicable.

ALIGNMENT WITH STRATEGIES

8. The Metro Strategy 2006 – 2012 states that an objective of Christchurch City Council and Environment Canterbury is the development of a requirement that other road users are required by law to give way to buses when they are pulling out of stops. The targets/timeframes for this objective is 2007/2008 and refers to lobbying authorities and associations with other stakeholders to enable it to happen.

Do the recommendations align with the Council's strategies?

9. Yes, it recommends a submission promoting such a requirement on upcoming consultation on the Road User Rules.

CONSULTATION FULFILMENT

10. This matter arose out of a report by Kirsten Mahoney from the Capital Programme group and the matter has been discussed with her and the Transport and Greenspace Unit (who usually provide input on any submission on the Land Transport Rules).

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Note that it is not possible to make a bylaw requiring drivers of vehicles to give way to buses pulling out from a bus stop.
- (b) Request that a submission be prepared on the yellow draft of the Road User Amendment (Rule 61002/2), when that is published for consultation, seeking an amendment to the Road User Rule, to require drivers of vehicles to give way to buses that are pulling out from a bus stop. (This submission to be made together with any other submissions it is appropriate for the Council to make in relation to that consultation).

Addendum to report to Council on Vehicles Giving Way to Buses (for 25 September 2008 meeting)

The above report includes the following recommendation to Council:

“(b) Request that a submission be prepared on the yellow draft of the Road User Amendment (Rule 61002/2), when that is published for consultation, seeking an amendment to the Road User Rule, to require drivers of vehicles to give way to buses that are pulling out from a bus stop. (This submission to be made together with any other submissions it is appropriate for the Council to make in relation to that consultation).”

A draft amendment to the Land Transport Road User Rule has been published (no. 61001/4), with submissions to be made by 16 October 2008. The New Zealand Transport Agency are proposing that the rule will come into force on 1 July 2009.

The proposed changes to the rule do not include any amendments related to bus priority. However, an “issue for consideration” that is raised in the overview to the rule includes the following:

“Priority for buses when signalling to leave a stop

Introduction

Consideration is being given to whether other drivers should be required to give priority (when they can do so safely) to a bus when the bus driver signals and pulls away from a stop. One of the critical elements in addressing the increasing need to provide effective public transport is to improve the reliability of transport services. Waiting for suitable gaps to allow a bus to enter the traffic stream can cause considerable delays and variability in service and, consequently, reduced reliability. Many drivers do make way for buses to enter the stream but on many critical routes this courtesy cannot be relied on.

Overseas requirements for giving way to buses

Australia

The *Australian Road Rules* require drivers to give way to a bus when it is about to enter the lane in which the driver is travelling subject to:

- the vehicles being in a ‘built-up area’ (defined in relation to roadside buildings or street lighting but largely covering areas where the speed limit is 70 km/h or less);
- the bus displaying a “give way to bus” sign; and
- the bus driver having given sufficient warning (defined as at least five seconds of indication signal).

United Kingdom

In contrast, the British *Highway Code* advises drivers to give priority to buses when this can be done safely, especially when the bus signals to pull away from a stop. It also recommends drivers look out for people getting off a bus and crossing the road. The following are the relevant provisions of the *Highway Code*.

- The *Highway Code* does not apply solely to the lane on which the bus driver intends travelling (for example, a bus leaving a stop may have to encroach on to an adjacent lane).
- The *Highway Code* applies everywhere and not just in built-up areas. In rural areas, a school bus is the most likely bus to be waiting to leave a bus stop. Approaching drivers would have to slow to possibly give way to any stopped bus. Where this is a school bus, this could improve the compliance of drivers of other vehicles with the requirement to slow to 20 km/h for school buses stopped to discharge or embark children (*subclause 5.6(1)*).

- The *Highway Code* does not require the bus to display a specific sign. (If a sign was required it would have to compete with many other messages found on the back of buses and in many cases would not be clearly seen.)
- A bus driver is required to signal, but the *Highway Code* also indicates that the bus driver needs to be aware that a vehicle may be so close that the bus would not be able to give way safely. Consequently, while the bus is given priority, some onus for assessing the situation still rests with the bus driver.

Comment

The idea of providing for buses to be given priority needs to be balanced against the safety of other motorists and cyclists. The proposal to give buses some priority has raised concerns in relation to cyclists where bus drivers might be more likely to pull out in front of an approaching cyclist assuming a right of way. It is essential that the bus driver be required to signal and not assume absolute priority to the bus. On that basis, the UK model appears to provide a good balance of obligations and, if the proposal were to proceed, could be the most suitable option to adopt in New Zealand.

Your comments on this issue would be welcomed.”

This addendum recommends an amendment to the resolution above, as follows:

- “(b) *Approve a submission to be made on the yellow draft of the Road User Amendment (Rule 61001/4), in support of the UK model giving priority to buses when signalling to leave a stop, and seeking an appropriate amendment to the Road User Rule to give effect to such a requirement. (This submission is to be made together with any other submissions it is appropriate for Council to make in relation to the consultation on Rule 61001/4).*”