

## 12. PROHIBITED TIMES ON ROADS

<b>General Manager responsible:</b>	General Manager City Environment, DDI 941-8608
<b>Officer responsible:</b>	Transport and Greenspace Manager
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### PURPOSE OF REPORT

1. The purpose of this report is to inform the Council of the different times of operation of "Prohibited Times on Roads" and the implications of extending these to seven days per week, and to make recommendations for a new policy for days and times for "Prohibited Times on Roads".

### EXECUTIVE SUMMARY

2. The Council received a report from the Riccarton/Wigram Community Board at it's meeting on 11 March 2010 requesting roads in the Sockburn industrial area to be included in the "Prohibited Times on Roads" register, but in this case the request was for the "prohibition" to operate seven days per week.
3. There are currently two different regimes for "Prohibited Times on Roads" and this request would create a third.
4. The history of "Prohibited Times on Roads" is provided in the Background section of this report (para 19 to 40). A list of other options for dealing with anti-social road users is provided in para 41.
5. The provision of two different regimes can be justified for the two different environments, one for industrial areas and one for lifestyle areas.
6. For well-defined industrial roads, with no through traffic function, where the problems can arise every night of the week, a "prohibition" implemented seven days a week, will not affect a person's right to freedom of movement under the New Zealand Bill of Rights Act 1990.
7. In areas where there is a through traffic function, or where people live, a four-day prohibition is a more reasonable limitation on people's rights. In this case it is recommended that 10pm Thursday, Friday, Saturday, Sunday nights to 5am the following morning, and 10pm the night prior to and on statutory holiday nights, to 5am the following morning, be used for these roads.
8. All the other criteria set out in the policy for "Prohibited Times on Roads" also need to be met for any new roads to have a "prohibition" imposed under clause 15 of the Christchurch City Council Traffic and Parking Bylaw 2008.

### FINANCIAL IMPLICATIONS

9. An estimated cost for changing the times on existing signs to meet the new policy, if approved, is \$2,000.

### Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. The installation of road signs and markings are within the LTCCP Transport and Greenspace operational budgets.

### LEGAL CONSIDERATIONS

11. Clause 15 (1) of the Christchurch City Council Traffic and Parking Bylaw 2008 provides that "The Council may by resolution specify any road or part of a road and the days and times during which motor vehicles weighing less than 3,500 kilograms are prohibited from being used on the road or part of that road or roads".

12. The Council adopted the staff recommendation for a policy for prohibited times on roads, on 27 November 2008. The recommendations in this report are consistent with that policy but effectively add to the existing policy to provide for further considerations for the Council to apply to a request for a prohibited time on a road to be imposed.

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

13. As noted above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

14. 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 2009-19 LTCCP?**

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

**ALIGNMENT WITH STRATEGIES**

16. The recommendations align with the Council's Safer Christchurch Strategy and Litter Strategy.

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

17. As noted above.

**CONSULTATION FULFILMENT**

18. The Police are in agreement with the information in this report.

**STAFF RECOMMENDATION**

That Council resolve:

- (a) That the following be added as a second and third paragraph of the Scope and Definitions section of the "Prohibited Times on Roads" policy (**Attachment 2**):
- (i) Where a "Prohibited Times on Roads" request is for well-defined industrial areas with no through function, the prohibition should be seven days a week, from 10pm to 5am the following morning.
  - (ii) Where a "Prohibited Times on Roads" request is for an area where people live or where the roads have a through function then the prohibition is to apply only during limited times, in particular: – Thursday to Friday 10pm-5am; Friday to Saturday 10pm-5am; Saturday to Sunday 10pm-5am; Sunday to Monday 10pm-5am; and from 10pm on the day preceding any public holiday until 5am on that statutory holiday; and from 10pm on the public holiday to 5am the following morning.
- (b) That the issues to be considered section of the flowchart (**Attachment 2**) in the "Prohibited Times on Roads" policy be amended so that the second bullet point reads "The problem has persisted for a considerable period of time (at least two years), even though other enforcement has been carried out."
- (c) That the issues to be considered section of the flowchart in the "Prohibited Times on Roads" policy be amended so that the fourth bullet point reads "No arterial roads, or collector roads, are included."
- (d) That the existing "Prohibited Times on Roads" be reassessed into the two categories and a report be presented to the Council to align the days and times of the prohibitions on the existing roads with (a)(i) and (ii) above.

## BACKGROUND

19. The initial “prohibitions” on roads were created on 9 July 2001 for industrial roads in the Wigram area and operated on Friday, Saturday and Sunday nights from 9pm to 5am the following morning.
20. These roads were all in well-defined industrial areas with no through function. For this reason, there were no New Zealand Bill of Rights issues as the “prohibitions” did not affect the public’s right to freedom of movement, in relation to any right of passage in these areas.
21. The expansion of the “prohibition” to seven days a week is also considered to have no effect on the public’s right of passage in these industrial roads because the roads are principally used by the public during the day.
22. Exemptions for vehicles that have a legitimate reason for entering these roads at night is provided for in clause 15(3) of the Traffic and Parking Bylaw 2008.
23. On 21 June 2007 the Council also made resolutions for “Prohibited Times on Roads” for roads with lifestyle blocks, as the anti-social road user behaviour had spread into these areas. The behaviour in these roads resulted in the residents being held captive in their own homes on Thursday, Friday and Saturday nights.
24. For these roads the effects on the right of persons to use public roads for the purpose of passage (under the right to freedom of movement in the New Zealand Bill of Rights 1990) had to be weighed up against the effects of the anti-social road user behaviour on the people living in the area.
25. The inclusion of these roads was only approved after the Council considered a number of conditions that were recommended in the 21 June 2007 report (at that time the applicable bylaw was clause 68A(2) of the Traffic and Parking Bylaw 1991). They were as follows:
 

*“Furthermore, 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 9.00pm-5.00am; Saturday-Sunday 9.00pm-5.00am; Sunday-Monday 9.00am-5.00pm; and from 9.00pm on the day preceding any public holiday until 5.00am on that statutory holiday. These are the times during which, having regard to past experience, illegal street racing is likely to occur.”*
26. After consideration by the Council, it was resolved to implement these “prohibitions” on Thursday, Friday, Saturday and Sunday nights from 10pm to 5am the following morning.

27. The 10pm to 5am times are consistent with the times for night time stopping bans like the ones in Harper Avenue and Deans Avenue and is also consistent with the proposed "Cruising Bylaw".
28. In addition to the industrial roads that had "prohibitions" approved on 9 July 2001 and the lifestyle areas that had "prohibitions" approved on 21 June 2007, there have been a number of other roads where "prohibitions" were approved on 28 February 2008, 11 September 2008 and 25 June 2009 (see Register of Prohibited Times on Roads). Some of these roads are industrial roads with no through traffic function. Some are industrial roads with a through traffic function. Some are lifestyle areas.
29. If the Council approve the staff recommendation in this report, then the existing "prohibitions" would need to be reassessed under the new policy decision.
30. The latest list of streets presented to the Council on 11 March 2010 are in well defined industrial areas, similar to those that were the subject of the first "prohibitions". However the request from the Riccarton/Wigram Community Board was for these roads to operate from 10pm to 5am, seven days a week.
31. This would create three different "days of the week" regimes.
32. The Police have indicated "that the inconsistency will cause issues" for enforcement. Confusion over what days and times exist when a call comes in and having to check the details on the signs on arrival does not provide effective enforcement.
33. As the number of roads being added increases and the number of days per week increases, the City faces the real problem of being seen as unsafe and therefore needing a night time curfew.
34. It is important to put measures in place that enable future requests for "prohibitions" to be processed in such a way as to avoid creating this image for Christchurch.
35. It is also appropriate to extend the "prohibition" to include the night of a public holiday through to the following morning, as this time is similar to a Sunday night which is already covered by the "prohibition".
36. Currently the Council Policy on "Prohibited Times on Roads" states under issues to be considered that "No arterial roads are included". Collector roads should be added to this clause as the "City Plan" definition states "They link to the arterial network and act as local spine roads". The installation of a "prohibition" on a Collector road is in conflict with this definition.
37. As the "prohibitions" do not eliminate the anti-social road user problems, it is important that all possible avenues have been explored (see para 41) before a prohibition is imposed. There should also be sufficient time allowed between when an anti-social road user problem occurs and a prohibition is imposed, otherwise there would be a never-ending process of imposing a "prohibition", moving the problems on, imposing a new "prohibition" etc.
38. In the case of Hasketts Road, the time taken to impose a "prohibition" was between three and four years. This timeframe is unacceptable, and two years would be more appropriate, as recommended be added to the criteria in the policy. The policy currently provides that the problem must have "persisted for a considerable period of time even though enforcement has been carried out."
39. It is recommended that "considerable period of time" be clarified so that it will only apply where there has been at least two years of problems associated with anti-social road user behaviour, and all other avenues have failed to reduce the problems, including regular Police enforcement. This will avoid the potential for "over regulation" using this provision in the Council's district.
40. The proposals in the staff recommendations are consistent with the Council policy on "Prohibited Times on Roads" and therefore do not conflict, but add to that policy.

41. There are several methods of dealing with the anti-social road user behaviour, in addition to education of road users:
- (a) Police enforcement. There is a variety of legislation that allow the Police to deal with:
    - (i) Sustained loss of traction (Land Transport Act 1998).
    - (ii) The impoundment of vehicles (Land Transport Act 1998).
    - (iii) The illegal modification of vehicles or excessive noise of vehicles (Land Transport Act 1998).
    - (iv) Non compliance with the "Land Transport Road User Rule 2003" (speed etc.).
    - (v) The use of a vehicle to exhibit the power or noise of the engine (cruising).
    - (vi) Inappropriate behaviour (Crimes Act 1961 / Summary Offences Act 1981).
    - (vii) The enforcement of alcohol laws and alcohol bans (Local Government Act).
  - (b) Physical works that reduce the area of road sufficiently to prevent the accumulation of large numbers of vehicles or the carrying out of "burnouts". An example of this is the work carried out by the Council on the Summit Road.
  - (c) The night time ban on the stopping of vehicles. This has been very successful on central city streets like Colombo Street in Sydenham and Deans Avenue and Harper Avenue.
  - (d) The implementation of liquor bans. These have had an effect on anti-social road user behaviour in the areas scheduled in the "Alcohol Restrictions in Public Places Bylaw 2009".
  - (e) "Prohibited Times On Roads" for vehicles weighing less than 3,500 kilograms at night.
  - (f) Proposed Cruising Bylaw.