

**24. REQUEST FOR COUNCIL APPROVAL TO USE THE SPECIAL CONSULTATIVE PROCEDURE FOR PROPOSED CHANGE OF DIRECTION OF ONE WAY STREET AND NEW DECLARATION OF A PART TIME PEDESTRIAN MALL IN POPLAR STREET USING BOLLARDS FOR CLOSURE EVERY NIGHT**

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<b>Officer responsible:</b>	Unit Manager Transport and Greenspace
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**PURPOSE OF REPORT**

1. The purpose of this report is to recommend that the Council approve:
  - (a) The commencement of a statutory special consultative procedure for
    - (i) **Proposal A** - to create a permanent part time pedestrian mall in Poplar Street at night time (from 6pm to 6am the following day) using bollards to effect closure of this route to all vehicles. This project is in support of work being carried out by the New Zealand Police, and bar owners and operators, to improve safety for pedestrians and modify the behaviour of bar patrons; and
    - (ii) **Proposal B** – to change the one way direction of travel in Poplar Street (currently flowing from south to north) so that all traffic can travel in the same direction from north to south from Lichfield Street to Tuam Street.
  - (b) The continuation of the trial of bollards until the Special Consultative Procedure is completed and a decision has either resulted in the declaration of a part time pedestrian mall or another means of improving pedestrian safety has been established.

**EXECUTIVE SUMMARY**

2. This report and its attachments (**Attachments 1-6**) detail:
  - (a) **Proposal A:** Creation of a new permanent part time pedestrian mall in Poplar Street from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, every night from 6pm to 6am the following day; and the continuation of the bollard trial until the declaration is made.
  - (b) **Proposal B:** Amendments to Schedule One (One Way Streets) of the Traffic and Parking Bylaw 2008 to change the one way in Poplar Street to flow north to south, from Lichfield Street to Tuam Street.
3. The aim of both proposals is to improve safety for motorists and pedestrians:
  - (a) To provide a safer environment for the public.
  - (b) To remove potential conflict between pedestrians, tram and vehicles.

**Proposal A: Proposal to create a permanent part time pedestrian mall**

4. At the request of the Council in January 2008, and in conjunction with a similar trial in Struthers Lane, a trial nightly closure was carried out for 12 months in Poplar Street starting on 31 January 2009. The trial used two bollards side by side located approximately 30 metres south of the intersection of Poplar Street and Lichfield Street. The bollard trial in Struthers Lane is the topic of a separate report to the Council.

5. Assessment of the effectiveness of the bollard trial began in November 2009. This involved:
  - (a) A survey comprising qualitative interviews with local business people, property owners, residents, managers of emergency services, providers of security services and drivers who park in Poplar Street and Ash Street.
  - (b) Analysis of crash data from 2004-2009.
  - (c) Observations by the Christchurch Safer City Officers of the presence of vehicles and pedestrian behaviour each time they visited the area.
6. The bollard trial results indicate that the bollard closure has been very successful in preventing through traffic, therefore improving pedestrian safety, and has not unduly inconvenienced local businesses, property owners or residents. However the trial has also highlighted that vehicles park in Poplar Street between the bollards and Lichfield Street, both in the currently designated parking spaces and across the street in an unstructured way. (Note that on 24 June 2010 Council approved the removal of all parking spaces at all times in Poplar Street, effective on commencement of the physical works for the tram.) For continuity, and to avoid public confusion, staff recommend extending the bollard trial until the Special Consultative Procedure is completed and a decision has either resulted in the declaration of a pedestrian mall or another means of improving pedestrian safety has been established.
7. Based on the results of the bollard trial, the Council staff now recommend that part time pedestrian mall continue as a permanent fixture. Other options that have been considered and rejected regarding this proposal are detailed in paragraph 19 of this report.

#### **Proposal B: Proposal to change the one way street direction**

8. This report sets out options for traffic management in Poplar Street. Options and staff recommendations are detailed in paragraph 27 of this report. The recommended option is to reverse the one way direction so that all traffic travels in the same direction, in conjunction with the declaration of a permanent part time pedestrian mall in the north part of the street.
9. Both the declaration of a new part time pedestrian mall and the one way street changes require the use of the Special Consultative Procedure.

#### **FINANCIAL CONSIDERATIONS**

10. The cost of the proposed special consultative procedure is included within the LTCCP Street and Transport Operational Budgets.

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

11. As above.

#### **LEGAL CONSIDERATIONS**

12. The proposed changes require an amendment to Schedule One (One Way Streets) of the Traffic and Parking Bylaw 2008, and the declaration of a part time pedestrian mall in Poplar Street.

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

13. Yes – as below.

#### **Proposal A – Poplar Street part time pedestrian mall**

14. Under Section 342(1)(b) and Clause 11, Schedule 10 of the Local Government Act 1974, staff sought approval from both the Police and Ministry of Transport to run the bollard trial, and both responded without any objection to the proposed trial.

15. In order for staff to fully assess the impact of restricting vehicle access at night for a period of one year, it was proposed to restrict vehicle 'through' traffic between defined hours and monitor pedestrian, and vehicle behaviour over this period.
16. The Council requirement (January 2008) was that staff would report back to the Council on the trial, and either seek further permission from the Council under section 336 LGA 1974 to turn one or both areas (i.e. Struthers Lane and Poplar Street) into a permanent pedestrian only zone during defined periods of the day/night, or, keep the roads open and only use restrictions for special events such as the Buskers Festival or Jazz Alley, following the normal public notification periods. This report deals just with Poplar Street and an associated report deals with Struthers Lane.
17. This report recommends the declaration of a part time pedestrian mall in Poplar Street.
18. Section 336 of the Local Government Act 1974 provides that Councils can declare a pedestrian mall by using the special consultative procedure as follows to:
- “... (i) declare a specified road or part of a specified road to be a pedestrian mall, and
- (ii) prohibit or restrict the driving, riding or parking of any vehicle, or the riding of any animal, on all or any portion of the pedestrian mall either
- (i) generally; or
- (ii) during particular hours.
- (b) A declaration—
- (i) may include exemptions and conditions; and
- (ii) does not take effect until—
- (i) the time for appealing under subsection (3) has expired; and
- (ii) any appeals have been determined under subsection (4).”
19. Section 336(3) provides that anyone may within one month after the making of a declaration, or within such further time as the Environment Court may allow, appeal to the Environment Court against the declaration made by the Council. The public notice required as part of the special consultative procedure (by section 83(1)(e)) of the Local Government Act 2002 must explain this right of appeal.
20. Analysis of reasonably practicable options considered by the Council
- (a) The following options exist for the Council in relation to this proposal:
- (i) Status quo. ie do nothing. Leave Poplar Street open to all traffic at all hours. This option is not recommended because it does not address the safety issues arising during the hours of 6pm to 6am and it does not support the endeavours of the New Zealand Police to deal with problems of alcohol and drug induced behaviour.
- (ii) Create a **part time pedestrian mall** in Poplar Street from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, every night from 6pm to 6am the following day. This option will address the safety issues for pedestrians and vehicles that arise during the hours of 6pm and 6am and support the endeavours of the New Zealand Police to deal with problems of alcohol and drug induced behaviour. **This is the recommended option.**

- (iii) **Close Poplar Street to all traffic except taxis**, between a time no earlier than 6pm to a time no later than 6am the following day. This option is **not recommended** because of the difficulty of enforcing a taxi only zone. It does not address the safety issues of vehicles driving through a road where there are often large numbers of intoxicated people wandering across the road, throwing bottles or using broken bottles to scare vehicles as they pass. There is also the potential for confusion and the subsequent danger to pedestrians who think that vehicles are banned and who may therefore wander out onto the road into the path of oncoming vehicles.
  - (iv) Close the full length of Poplar Street from Lichfield Street to Tuam Street (ie create a **part time** pedestrian mall) between a time no earlier than 6pm to a time no later than 6am the following day. This option is **not recommended** because it does not enable access to the businesses and car parking underneath the Poplar Apartments in Ash Street.
  - (v) Create a **part time** pedestrian mall in Poplar Street from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, as described in (ii) above, every night from 11pm to 5am the following day. This option is **not recommended** because it does not support the endeavours of the New Zealand Police to deal with problems of alcohol and drug induced behaviour.
  - (vi) Create a permanent **full time** pedestrian mall from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street. This option has merit and may be favoured in the future but the process has the potential to become protracted and cause delays for the capital programme work planned for this financial year.
- (b) Option (ii) is the recommended option. It is aligned to and meets the project objectives.

#### ADDITIONAL CONSIDERATIONS

21. In the decision in *Pool v New Plymouth City Council* [1977] 6 NZTPA 201, the Town and Country Planning Appeal Board adopted some 'considerations' in examining a decision to declare part of a city street a mall. Those considerations were:
- (a) Whether the closure of a street to traffic would be to the advantage of the community in general.
  - (b) Whether there were disadvantages to the community in general which balanced or outweighed the advantages.
  - (c) Whether there was detriment to property owners or business operators which was unreasonable given the absence of compensation.
  - (d) Whether the closure adversely affected other property owners or business operations who may depend on the flow of traffic along the street.
22. These 'tests' were reframed in the context of the principles of the Resource Management Act 1991 in *Bain v Waimakariri District Council*, C111/08, Environment Court Christchurch, 20/10/08, as follows:
- (a) Whether aspects of the public interest would be enabled by the creation of the pedestrian mall.
  - (b) Whether aspects of the public interest would be disabled by the creation of the pedestrian mall.
  - (c) Whether individuals would benefit from the creation of the pedestrian mall.

- (d) Whether individuals would be disadvantaged by the creation of the pedestrian mall;
  - (e) Whether the pedestrian mall would better achieve the sustainable management of the physical resources of the district.
23. These considerations/tests from the above cases are discussed in relation to this proposal in Poplar Street and also serve as consideration of social and environmental matters arising from the proposals:
- (a) There will be significant safety improvements for the public (patrons of the bars and other businesses in the area as well as other pedestrians) as a result of the creation of the part time pedestrian mall in Poplar Street.
  - (b) For motorists, their exclusion from the area, from a time no earlier than 6pm to a time no later than 6am the following day, will be a safety improvement, removing them from a possible conflict situation, and although it may mean a detour, the increased trip distance is not great.
  - (c) In their feedback in the bollard trial survey, eight business people in Poplar Street indicated that they feel that the bollards are a good idea and are working well to reduce 'rat running' and improve safety for pedestrians. Two were not aware of the bollard and two others, plus the body corporate at High Para Apartments, said that the bollards do not raise any issues for them.
  - (d) The benefits of safety and efficiency are considered to outweigh the relatively small disadvantages for a small number of drivers.

#### **CULTURAL CONSIDERATIONS**

24. The Council staff are not aware of any cultural issues that should be taken into account in respect of the proposal contained in this statement.

#### **ECONOMIC CONSIDERATIONS**

25. The Council staff are not aware of any economic issues arising either from the twelve month trial nor from the proposed permanent introduction of a part time pedestrian mall at night in Poplar Street.

#### **Proposal B - one way street bylaw amendments**

26. Section 155 considerations:
- (a) Under section 72(1)(ia) of the Transport Act 1962 the Council must create and amend one way streets by way of a bylaw. The Christchurch City Council Traffic and Parking Bylaw 2008 is the bylaw the Council uses to provide for one way streets (see clause 12 and the First Schedule). This bylaw was made pursuant to the Local Government Act 1974, the Local Government Act 2002 and the Transport Act 1962.
  - (b) Section 155 of the Local Government Act 2002 requires the Council to determine whether the making or amending of a bylaw made under that Act 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).
27. Appropriate way to address problem:
- (a) The proposed changes to the First Schedule (One Way Streets) has been identified as necessary for changing the direction of travel in Poplar Street. It is considered necessary to change the direction of travel so that the traffic will flow in the same direction as the tram and remove possible vehicle conflict.

28. Analysis of reasonably practicable options considered by the Council:

- (a) The following options (see diagrams in **Attachment 6**) exist for the Council in relation to managing the direction of travel on sections of Poplar Street:
- (i) Retain the Status quo i.e.: do nothing. Retain the south to north traffic flow in Poplar Street for vehicles and run the tram in the opposite direction against the flow of other vehicular traffic. This option is **not recommended** because the street is not wide enough for vehicles and trams to pass safely. With the extension of the tram route this option will create potential for confusion and conflict between the trams and other vehicles.
  - (ii) Retain the south to north traffic flow for vehicles and install electronic signs to stop vehicles entering Poplar Street when a tram is entering or in Poplar street. This option would need to be combined with the creation of a permanent **full-time** pedestrian mall from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, as described in paragraph 19(vi), to eliminate the conflicts that would otherwise occur at the Lichfield Street intersection. This option would require vehicles, including those using parking garages under the Poplar Apartments, to use the existing two way Ash Street to exit the south end of Poplar Street. This option is **not recommended** as there will be motorists who will choose to ignore the electronic signs.
  - (iii) Change the direction of one way travel so that it flows from north to south in Poplar Street and combine with the declaration of a permanent **part time** pedestrian mall in the northern part of the street, from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, as described in paragraph 19 (ii). **(This is the recommended option).**
  - (iv) Change the direction of one way travel so that it flows from north to south in Poplar Street and combine with the declaration of a permanent **full-time** pedestrian mall in the northern part of the street, from the south boundary line of Lichfield Street extending along Poplar Street in a southerly direction to a point 45.5 metres south of Lichfield Street, as described in paragraph 19 (vi). This option has merit and may be favoured in the future but the process has the potential to become protracted and cause delays for the capital programme work planned for this financial year.
- (b) Option (iii) is the recommended option, and requires an amendment to the First Schedule (One Way Streets) of the Traffic and Parking Bylaw 2008. The Local Government Act 2002 prescribes that any alterations or additions to a Bylaw may only be undertaken using the Special Consultative Procedure.
- (c) There is no other way of creating a legally enforceable one way street, therefore the bylaw amendment is the most appropriate way of addressing this problem.

29. Appropriate form of bylaw:

- (a) The form in which the proposed amendment to the First Schedule of the Bylaw has been drafted is considered appropriate, in specifying the road which is to become one way and the location (between intersections) in that road.

30. New Zealand Bill of Rights Act 1990:

- (a) 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 one way streets 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. Therefore there are no inconsistencies between the draft amended bylaw and the NZBORA.

31. Proposed Bylaw amendments:

- (a) The amendments proposed to the Traffic and Parking Bylaw 2008 are set out in the attached Amendment Bylaw (**Attachment 5**).

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

**Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?**

- 32. Aligns with the Streets and Transport activities by contributing to the Council's Community Outcomes – Safety and Community.

**ALIGNMENT WITH STRATEGIES**

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

33. The proposals align with the following:

- (a) Christchurch City Plan  
Lanes redevelopment projects that improve pedestrian facilities and pedestrian safety are consistent with the transport and access provisions of the City Plan (see Objective 7.5, and Policy 7.5.1), and with objectives and policies for the Central City (see in particular, Policy 12.3.1 and 12.3.4).
- (b) Central City Revitalisation Strategy  
Lanes redevelopment projects that improve the visual amenity, uniqueness, range of activities, and vitality of the Central City will enhance revitalisation objectives.
- (c) Central City Transport Concept  
Lanes redevelopment projects that improve pedestrian activity and permeability (via mid-block linkages) will facilitate the implementation of the Central City Transport Concept.
- (d) Safer Christchurch Strategy  
Lanes redevelopment projects that increase natural surveillance in lanes areas and incorporate principles of Crime Prevention through the Christchurch Safer Road Strategy. Environmental Design (CPTED) are consistent with the Safer Christchurch Strategy.
- (e) Greater Christchurch Urban Development Strategy and the Christchurch Visitor Strategy as they facilitate the extension of the tram route and they make the area safer for bar patrons and passers by, as well as for motorists.
- (f) Also aligns with the Parking Strategy 2003, Pedestrian Strategy 2001, Road Safety Strategy 2004
- (g) National Urban Design Protocol  
Lanes redevelopment projects that improve quality and design of the urban environment and reflect urban sustainability principles will facilitate the implementation of the National Urban Design Protocol.

## CONSULTATION FULFILMENT

### Proposal A – Poplar Street part time pedestrian mall

34. On 31 January 2009, in conjunction with the Struthers Lane bollard trial, staff installed two trial bollards at one location 30.6 metres south of the intersection of Poplar Street and Lichfield Street, to prevent through traffic along Poplar Street.
35. Assessment of the effectiveness of the bollard trial began in November 2009. This involved:
  - (a) A survey comprising qualitative interviews with local business people, property owners, residents, managers of emergency services, and providers of security services.
  - (b) Analysis of crash data from 2004-2009.
  - (c) Observations by the Christchurch Safer City Officers of the presence of vehicles and pedestrian behaviour each time they visited the area.
36. The result of this trial in Poplar Street and Struthers Lane indicates that the installation of bollards in both streets has improved the environment for pedestrians during the closure period. The full report is available on request.
37. With mainly positive feedback from users and local stakeholders, staff recommend that a permanent part time pedestrian mall be created in Poplar Street, by replacing the manual bollards with a set of automated retractable bollards that will be activated by an approaching tram or emergency vehicle.
38. The recommendation includes that the time for raising and lowering these bollards be the same as the trial and on a nightly basis.
39. To create a mall, the council is required to use the Special Consultative Procedure to gather community views on the establishment of a permanent night time pedestrian mall. The SCP process requires a Hearings Panel. The SCP process can be scheduled from 30 July 2010 to 31 August 2010.

### Proposal B - one way street bylaw amendments

40. To change a bylaw, the council is required to use the Special Consultative Procedure to gather community views. The SCP can be run in conjunction with the declaration of a mall as described above.

## STAFF RECOMMENDATION

It is recommended that the Council resolves:

- (a) That the proposed Traffic and Parking Amendment (Poplar Street) Bylaw 2010 attachment (Attachment 5), amending the First Schedule of the Christchurch City Council Traffic and Parking Bylaw 2008, is the most appropriate way to address the items identified in paragraphs 3 and 8 of this report.
- (b) That there are no inconsistencies between the amendments proposed and the New Zealand Bill of Rights Act 1990, and that the draft amendments are in the most appropriate form.
- (c) To approve the continuation of the trial use of bollards in Poplar Street until the Special Consultative Procedure is completed and a decision has either resulted in the Declaration of a pedestrian mall or another means of improving pedestrian safety has been established.

- (d) To adopt for consultation through the special consultative procedure the proposed changes to Poplar Street as detailed in paragraphs 19(ii) and 27(iii), by approving the Statement of Proposal and Summary of Information (Attachments 1 and 2 respectively).
- (e) To adopt the dates for publicly notifying the Statement of Proposal and the Summary of Information (30 July 2010 to 31 August 2010).
- (f) To determine that the Summary of Information be distributed to all properties and businesses along Poplar Street, Ash Street, Tuam Street and Lichfield Street between Manchester Street and Madras Street; to 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 and Business Groups in the distribution area.
- (g) To determine that the Statement of Proposal and the Summary of Information be available for public inspection at all the Council Service Centres, the Council libraries and on the Council's website.
- (h) That public notice of the proposal be published in a newspaper having a wide circulation in the Council's district; and that this explains the right of appeal in relation to this proposal, and advises where people can view copies of the summary of information and the statement of proposal, and the time within which submissions can be made.
- (i) To appoint a Hearings Panel to hear any submissions on the proposal.