

7. HEARINGS REPORT ON THE PROPOSED NEW REGENT STREET PEDESTRIAN MALL VARIATION TO THE SPECIAL ORDER

General Manager responsible:	General Manager City Environment, DDI 941 8608
Author:	New Regent Street Hearings Panel

PURPOSE OF REPORT

1. The purpose of this report is to present the Hearings Panel recommendations on the proposal to:
 - (a) Amend clause (b) of the existing New Regent Street Mall Declaration of a Special Order to restrict the hours that goods service vehicles are permitted in the Mall.
 - (b) Amend clause (c) of the same declaration in relation to its reference to approval by the Traffic Manager or Parking Operations Manager.

EXECUTIVE SUMMARY

2. The Council received a request from the tram operators, Christchurch Tramway Ltd to restrict the access and parking of private vehicles at night in New Regent Street Pedestrian Mall.
3. The pedestrian only street is used by vehicles for parking in the evening even though this is banned by the Mall declaration. It is a convenient place for patrons of the nearby restaurants to park. The parked vehicles are generally private motor cars that on a regular basis obstruct access for the tram. This has restricted the restaurant tram from completing its circuit. Delays of up to one hour have been experienced.
4. The power to declare New Regent Street a pedestrian mall is contained in section 336 of the Local Government Act 1974. That section also gives the Council the power to revoke or vary a declaration creating a pedestrian mall by using the special consultative procedure. There is a right of appeal to the Environment Court against any decision made by the Council.
5. As specified in the First Schedule (One Way Streets) of the Traffic and Parking Bylaw 2008, New Regent Street is a one-way street (north to south).
6. Currently motorists are informed of the restrictions in New Regent Street by way of signage. These signs will be amended to show the new times if approved.
7. The proposed changes consulted on are to amend the existing time that goods vehicles are allowed to enter the street for delivery purposes. The existing special order showing proposed variations is shown in **Attachment 1** to this report.
8. The special order currently allows access for goods vehicles only at any time except between 10am and 4pm daily. The proposal adds a night time closure to all vehicles between 11pm and 5am daily. Outside of these times no vehicles will be allowed in New Regent Street except for those that are exempt in the declaration. Special arrangements already in place under (c) of the special order to allow business owners and operators access to their businesses will continue.
 - (a) The amended declaration would read:
 - (i) Clause (b) Goods Service Vehicles are permitted in the Mall for the purpose of loading and unloading at any time other than 10am to 4pm, and 11pm to 5am daily.
 - (ii) Clause (c) Trade and other vehicles (including those operated by service authorities) of any class may enter the Mall at specified times if authorized to do so by the Council officer that holds the position of asset owner at that time.

9. The aim of the proposal is to:
 - (a) Remove potential conflict between pedestrians, vehicles and the tram.
 - (b) Align the timing of access restrictions with City Mall and the proposed new night time part time pedestrian mall in Oxford Terrace).
10. Earlier consultation was carried out in 2007/8 with all business operators in New Regent Street. Christchurch Tramway Limited has also been contacted. The Council's Parking Enforcement team endorses this proposal.

PANEL CONSIDERATION

11. On 23 July 2009 the Council resolved to commence the special consultative procedure to undertake the amendments and new Mall Declaration described above. The Special Consultative Procedure was implemented from 6 August to 9 September 2009.
12. The Council appointed a Hearings Panel, chaired by Councillor Sue Wells and comprising David Cox, Yani Johansen, Mike Wall, Norm Withers. The panel met on 28 September 2009 and discussed all written and verbal submissions, then again on 23 February 2010 to confirm the Hearing Panel's recommendations on the proposed changes for the Council to consider.
13. The oral submission presented by Todd Flygenring, representing New Regent Street businesses, emphasised that later closing of the Manchester Street Car Parking building on week nights would support businesses in the area. He felt that this should be possible since this building is open and unattended, with no fee for parking between 6.15pm on Friday through till 11.45pm on Sunday each week. There appears to be a low level of public awareness of this free parking on weekends, and it was suggested that some signage outside the building would enhance usage of it and perhaps relieve the demand for illegal parking in New Regent Street Mall.
14. The Panel asked for information about the number of on-street parking spaces in the area. (On Armagh Street and Gloucester Street between Colombo Street and Manchester Street, and on Manchester Street between Armagh Street and Gloucester Street there are altogether 70 P60 on-street parking spaces and 18 spaces with limited time parking between 5 and 15 minutes, with 3 additional spaces on the south side of Gloucester Street opposite New Regent Street currently being resolved to P5).
15. The Panel also asked for a letter to be sent to the Chief Executive Officer of the Christchurch City Council asking if parking enforcement can be provided on a 24/7 basis. The reply to this is that the cost of parking enforcement outside of regular hours is too high to be viable. The team leader in charge of off street parking was also asked if the Manchester Street parking building could be opened until later on week nights. The answer was that this is not possible.
16. No changes to the original proposal are recommended by the Hearing Panel.

FINANCIAL IMPLICATIONS

17. The cost of altering the existing signs to show the new times (if approved) is estimated to be \$1,500.
18. The installation of road markings and signs is within the 2006-19 LTCCP Streets and Transport Operational Budgets.

CONSULTATION FULFILMENT

19. The consultation period for the special consultative procedure took place from 6 August 2009 to 9 September 2009. The consultation documents were sent directly to a range of groups, organisations and individuals, posted to property owners and hand-delivered to all businesses

in New Regent Street. Public notices appeared in relevant newspapers, and the consultation documents were made available at service centres, Council libraries and on-line via the Council's "Have Your Say" web page. A public information evening was also held in association with this and the Oxford Terrace/City Mall project on Wednesday 19 August 2009 which was attended by two representatives of the businesses in New Regent Street.

20. At the close of the consultation period a total of six submissions had been received. One submitter requested to be heard by the Hearings Panel in support of their submissions. The hearing was held on 28 September 2009.
21. Of the six submissions received, four were on behalf of groups or organisations, and two were from individual submitters. All were in support of the proposal and all included comments.
22. The submitter who requested to be heard by the Hearing Panel represented the businesses in New Regent Street.
23. All submitters raised issues related to illegal parking in the New Regent Street Mall after 5pm every night. These cars have at times blocked the tram tracks, causing a long delay for the dining car. The Council's Parking Enforcement Unit staff do not usually work after 5pm any day, but have on occasion attended New Regent Street Mall late at night because of this problem. The Police do not consider parking enforcement a priority for their officers. There is also some evidence of vehicles entering the Mall from Gloucester Street against the one way direction.
24. The signage at both ends of New Regent Street has been up graded in an attempt to stop drivers from entering and parking in the Mall. However, when approached by a parking warden, offenders have often argued that the signage is insufficient. The Parking Enforcement Unit submission said that enforcement is not the solution and that the placement of automatically controlled bollards at each end (controlled by the tram driver, and by the Council Traffic Control Room) would solve the problem. This would require provision in a future LTCCP.
25. In addition, business people in the street who have permits to use cars that are not Goods Service Vehicles for loading and unloading, within permitted hours, acknowledge that they sometimes park in the street after 6.15pm when the Manchester Street Parking Building closes, as their businesses operate later (for example the beauty clinic, cafes, photographer) and at that time it is impossible to find an on-street park anywhere nearby.
26. Two of the submitters requested 24/7 access to Manchester Street car parking building and additional short term parking spaces on Gloucester St and Armagh Street near the ends of New Regent Street Mall for loading or unloading goods.
27. Initially the street tenants claimed that the parked cars and the returning drivers helped to provide surveillance in the Mall. There appears to have been an increase in vandalism and robbery in that environment recently and they were concerned about removing the parking. As a result of this information the Council Safer Christchurch team have visited the business group representatives and discussed ways to improve safety in the street.

LEGAL CONSIDERATIONS

28. Public consultation has been completed via the special consultative procedure, as described above.
29. The Hearings Panel has no decision-making powers, but can make recommendations to the Council as a result of considering written and oral submissions. The Council can then accept or reject those recommendations, as it sees fit. However, the Local Government Act states that the views presented during consultation should be received by the Council with an open mind and should be given "due consideration in decision-making"³.

³ Section 82(1)(e). This is also supported by the Council's Consultation Policy, which states: "we will receive presented views with an open mind and will give those views due consideration when making a decision".

30. Section 336(1) of the Local Government Act 1974 provides that a Council “may, by using the special consultative procedure (a) declare a specified road or part of a specified road to be a pedestrian mall and (b) 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 generally or during particular hours. Section 336(8) states that any declaration “may be revoked or varied by a subsequent declaration using the procedure in subsection (1), and that subsection applies with all necessary modifications”.
31. Any declaration of the Council under section 336(1) may include exemptions and conditions but does not take effect until the time for appealing a declaration has expired or any appeal has been determined. Any person can appeal the making of the declaration to the Environment Court (they must do so within one month of the declaration being made). The public notice for this special consultative procedure explained this right of appeal.
32. Once a declaration has been made, and has taken effect it is an offence under section 336(7) to drive, ride, or park any vehicle or ride any animal, or cause or permit any vehicle to be driven, ridden, or parked or any animal to be ridden, in contravention of the declaration.
33. The following options exist for the Council:
 - (a) Status Quo i.e. reject the proposal as consulted on in its entirety. This option is not preferred as it does not address the request from businesses and the Christchurch Tramway Limited to address vehicle access and evening parking of private vehicles in the Mall outside the restricted hours.
 - (b) Accept the proposal.
 - (c) Change or reject part or parts of this report and the proposals, noting that major changes may require further work by staff and/or further community consultation before they could be finally adopted by the Council.
34. Option (b) is the preferred option.

HEARING PANEL RECOMMENDATIONS

The Hearing Panel recommends that the Council:

- (a) Approve the proposed changes to the New Regent Street Mall Declaration of a Special Order as shown in Attachment 1.
 - (i) Give public notice as soon as practicable, that the Christchurch City Council New Regent Street Mall Declaration of a Special Order as shown in Attachment 1 has been amended by Council.
 - (ii) Send copies of the amended declaration to those people or organisations that made submissions, advising them of the outcome.
- (b) Request staff to report to the Council on the potential to provide automated bollards for both ends of New Regent Street, and whether it is possible, within current budgets, to find the funding for the automated bollards immediately. This recommendation is made on the basis that the Hearings Panel is concerned that the New Regent Street Mall restrictions are not able to be effectively enforced, and that without enforcement there is questionable value in making the restrictions in resolution (a).
- (c) Review the level of service around after-hours enforcement.