
REPORT 7
(1215/52/IM)

REVIEW OF TRAFFIC PROVISIONS IN THE CONSOLIDATED BYLAW

1. Purpose of Report

To seek approval of a statement of proposal outlining amendments to the public places and traffic parts of the Wellington City Consolidated Bylaw 2008, and approval for further policy work on related issues.

2. Executive Summary

A technical review of the parking and traffic provisions in the Wellington City Consolidated Bylaw 2008 has identified recommended changes to:

- remove the prohibition on motorcycles using pay and display parks, providing consistency with provisions for ordinary parking meters
- clarify provisions relating to exemptions to residents parking areas
- remove the objection period following public notification of Council decisions
- remove offences specific to taxis that are unenforceable
- correct errors, out of date references, and unclear provisions.

A statement of proposal has been prepared for public consultation on these proposed changes. The report recommends establishing a subcommittee to hear submissions.

During the period of the review, complaints were received about the number of taxis parking in pay and display parks when they are unable to find space on a taxi stand, often without paying, reducing the supply of parks for other users. As this issue requires a policy response outside the scope of this technical review, it is recommended that further work is undertaken on the options available, and reported back to the Committee.

The bylaw provides a process for the Council to pass traffic resolutions, which are typically the detailed implementation of existing Council policy. As such, it is questionable whether such decisions fit naturally with the work of the Strategy and Policy Committee or elsewhere in the Council's governance arrangements. It is recommended that this issue is considered in the proposed review of governance arrangements and delegations.

3. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Agree to recommend that Council approves, for the purpose of public consultation using the special consultative procedure, the attached statement of proposal on proposed amendments to parts 4 and 7 of the Wellington City Consolidated Bylaw 2008 that:*
 - *removes the prohibition on Motorcycles using pay and display parks, providing consistency with provisions for ordinary parking meters*
 - *clarifies provisions relating to exemptions to residents parking areas*
 - *removes the objection period following public notification of Council decisions*
 - *removes offences specific to taxis*
 - *corrects errors, out of date references, and unclear provisions.*
3. *Agree to delegate to the Chief Executive and the Portfolio Leader Transport: Public Transport and Roads the authority to make changes to the statement of proposal required as a result of decisions of this Committee, as well as minor editorial amendments, prior to consideration by Council.*
4. *Agree to the establishment of a hearings subcommittee with the terms of reference provided in appendix two to this paper, with membership of the Portfolio Leader Transport (Public Transport and Roads), Portfolio Leader Walking, Cycling, Motorcycling, and Safety, Portfolio Leader Built Environment, and one other councillor.*
5. *Agree that officers should investigate and report back on options to address complaints about the number of taxis occupying pay and display parking, and in particular consider options relating to restrictions on taxis parking in pay and display areas.*
6. *Agree that the existing delegation for considering traffic resolutions be considered during the review of governance arrangements and delegations.*

4. Background

The Wellington City Consolidated Bylaw 2008 contains provisions that set the requirements for traffic and parking on Wellington's local roads in Part 5: Public Places and Part 7: Traffic. These parts were adopted in 2004 before being consolidated in 2008, and are due for a full review by 2014.

The legislative regime for traffic and parking is relatively complex, and in addition to the usual provisions of the Local Government Act 2002 (LGA),

provisions relating to bylaws that regulate parking and traffic occur in the Local Government Act 1974 and Land Transport Act 1998. Traffic and parking offences are also regulated at a national level by traffic regulations and the Land Transport (Road User) Rule 2004 (Road User Rule).

The 2011 policy programme includes a bylaw review to address technical parking and traffic issues. The review has now been carried out, and this report proposes amendments to the bylaw to address matters identified. The report does not recommend any changes in policy.

5. Discussion

The following issues were identified during the review of the bylaw:

- Motorcycles are prohibited from using pay and display parking
- Provisions relating to exemptions to residents and coupon parking are unclear, and do not appear to provide for exemptions to residents parking areas
- Public notification provisions provide for an objection period after a Council decision is reached, whereas Council policy (and the LGA) support consultation prior to decisions
- The infringements in the bylaw that relate to taxis occupying parking spaces are not enforceable
- There are a number of errors (such as incorrect cross references), out of date references, and unclear provisions.

Draft changes to the bylaw have been developed to address these issues (attached as part of a draft statement of proposal) and they are discussed in more detail below.

5.1 Motorcycle parking in pay and display

Motorcycles are currently prohibited from parking in pay and display spaces (Part 7, 6.5), although not from parking in normal metered areas. One of the factors behind the prohibition on motorcycles using pay and display parks was the difficulty of displaying a paper ticket in a secure way. Current technology can address this, for example by the use of the phone2park system. Removing this prohibition is not considered to be a policy change, as it makes the situation with pay and display parking consistent with the existing situation at other parking meters.

This change does not change the status of existing free motorcycle parking areas, but instead provides an additional choice to motorcyclists if there are no convenient free motorcycle parks available.

5.2 Exemptions to coupon and residents parking

The current provisions relating to exemptions from coupon parking (Part 7, 8.12) occasionally refer to residents parking schemes, but do not provide sufficient detail to provide for these exemptions. The Council has been operating exemptions to residents parking areas since the areas were introduced (for example, for social and health workers required who regularly visit residents, and for trades people undertaking work for residents). It is proposed

that the relevant clauses are rewritten to clearly provide for exemptions to be issued for both coupon and residents parking areas.

5.3 Public notification

The public notification provisions (Part 7, 12) provide for Council resolutions to be notified, and allow for an objection period following notification. If an objection is received, Council must consider that objection before the resolution comes into effect.

These provisions were carried over from an earlier version of the bylaw. They do not recognise that under the LGA, the Council has much wider consultation requirements than previously existed, and is required to consider community views prior to making a decision. Under current Council policy, the scale of consultation is tailored to the issue, and may range from city-wide consultation with formal submissions and hearings in the case of a major policy change, to informal discussions with residents around the location of residents parking areas, and consultation precedes the resolution. Under the bylaw public notification provisions, this consultation is then followed by an objection period.

This amounts to a double process, where consultation occurs both before and after a Council resolution. It is recommended that the public notification provisions are deleted from the bylaw, giving a simpler process where the Council relies on its existing consultation and engagement policy and the requirements of the LGA to ensure that appropriate consultation takes place. Council decisions would still be publicised through the Council's normal communication channels.

5.4 Taxi parking

During the period of the review, complaints were received about the number of taxis parking in pay and display parks when they are unable to find space on a taxi stand, often without paying. The bylaw includes offences (Part 7, 13.g to i) specific to taxis, which include:

- Driving or parking a taxi in a parking meter area or space without paying, unless dropping off or picking up a passenger
- Parking a taxi within 20 metres of a taxi stand, where the taxi is available for hire.

These offences have not proved enforceable, in part because of the legal definition of 'taxi' which includes being for hire (therefore if a driver states that the car is not available for hire as he or she is having a break, the offence does not apply), and because of the definition of parking, which includes a dwell time of 5 minutes, and the difficulty of ascertaining if a taxi is waiting to pick up a passenger.

The options for addressing the issue of taxis parking in pay and display include:

- a) Increasing the space allocated to taxi stands. However, the provision of taxi stands is intended to provide a service to the taxi using public (by enabling people to find a taxi easily), rather than to provide parking for taxis, and there does not appear to be a shortage of taxi stands from the public's point of view.

- b) Changing the policy about which vehicles can use pay and display parking (or particular areas of pay and display parking where a problem has been identified) so that it is easier to ticket taxis occupying parking spaces intended for other road users. There are a number of issues that would need to be worked through, including identifying areas where the problem exists, ensuring taxis are still able to drop passengers off safely and conveniently, and ensuring that the policy was enforceable.
- c) Amending the bylaw to provide for offences that are enforceable. Further work would be required to clarify if this is achievable.

The choice between these options is a policy issue beyond the scope of the technical review of the bylaw. It is recommended however that further work is done to investigate the options (in particular to work through issues identified with option (b)). A report back could occur with the final report on the proposed bylaw changes, and if required, policy changes could be implemented by resolution. This timing would allow for consultation with the taxi industry.

5.5 Other Issues

The other changes proposed to the bylaw are set out in the following table.

Topic	Bylaw reference	Issue	Proposed solution
Control of vehicles in public places	Part 5, Traffic, 14.4	This control only relates to vehicles, however, it should also apply to containers, bins, etc	additional words to 14.4
Introductory text	Part 7; Purpose	Additional text is proposed to assist readers to locate relevant regulations	Add text
Operation mobility permit	Part 7 Definitions 1.1 and offences 13.1.f	The terminology is out of date, and tickets are now issued based on the Transport Rule, making the bylaw provisions superfluous	Delete references to operation mobility permits
Parking meter	Part 7, Definitions	Additional wording is proposed to provide for new devices that can be used to collect payment for parking	Insert additional wording
Legislation	Numerous	The bylaw includes references to legislation that has been repealed	Update references
Parking at Parking Meters	Part 7 4.1.d	Additional wording is proposed to clarify that, where more than one motorcycle is parked in a parking space, no motorcycle can stay for a period in excess of the maximum authorised period	Insert additional wording
Parking at multiple parking meters	Part 7, 6.2	Additional wording is proposed to provide for new payment devices	Insert additional wording

Topic	Bylaw reference	Issue	Proposed solution
Coupon Parking	Part 7, 8.2	An incorrect reference is used to refer to the resolution process, and the requirements for signage are now set out in the Traffic Control Devices Rule, which takes precedence over this bylaw	Correct reference, and replace details of signage with reference to the traffic rule
	Part 7, 8.4	Additional wording is proposed in (b) to clarify that a coupon is only required if a vehicle is to be parked for more than the free period authorised by Council. The reference in (c)iii is incorrect.	Insert additional wording and correct reference
Vehicle Removal	Part 7, 9.3	Wording in relation to notice period that must be given prior to removing vehicles to allow road works is unclear.	Edit wording to increase clarity
	Part 7, 9.9	Current wording does not make sense, as it provides for any vehicle or objects on a road in breach of 13.1(l) to be removed – however 13.1(l) relates specifically to vehicles not on roads. This clause is intended to allow removal of bulk bins etc on roads, and the wording should be changed to achieve that.	Remove reference to vehicles, remove reference to 13.1(l)
	Part 7, 9.10 and 9.11	References incorrect, and the requirements for signage are now set out in the Traffic Control Devices Rule, which takes precedence over this bylaw	Update, and replace signage details with reference to the traffic rule
Provision for Resolutions	Part 7, 11.1	Because this provision is written widely, and specifies that Council can impose restrictions 'by resolution' this clause could prevent Council delegating a number of operational decisions to officers. It is proposed that the wording is amended to clarify that resolutions are not required for issues addressed in the Land Transport Rules, such as the installation of traffic islands and no-passing lines.	Amend wording to limit scope of resolutions required

5.6 Legal Requirements

The Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem (S155 of the LGA). In this instance, as it is proposed to only make relatively minor amendments and the problem being addressed is the operation of existing policy, it is appropriate to maintain the status quo in using a bylaw.

The LGA requires local authorities to determine whether any proposed bylaw gives rise to implications under the New Zealand Bill of Rights Act 1990. The proposed amendments to Parts 5 and 7 of the Consolidated Bylaw do not give rise to any implications under this Act.

5.7 Committee Responsibility

Traffic resolutions under the Bylaw are currently considered by the Strategy and Policy Committee under the following delegation from Council:

The Strategy and Policy Committee has responsibility and authority to: review and recommend to Council that it make any resolution where in a bylaw the Council has reserved any matter to be regulated, controlled, or prohibited by the Council by resolution either generally, for any specified case, or in a particular case... (includes any new or amended traffic resolutions under the Traffic Bylaw).

The nature of the traffic resolutions process is that the resolutions required by Council are typically the detailed implementation of existing Council policy. As such, it is questionable whether they fit naturally with the work of the Strategy and Policy Committee rather than the Regulatory Processes Committee. A further option would be for the resolutions to be considered directly by Council, given the limited nature of the discussion that usually occurs and the fact that Council is unable to delegate the decision. It is recommended that this issue is considered in the upcoming review of governance arrangements and delegations.

5.8 Consultation and Engagement

Amendments to a bylaw must be made using the special consultative procedure as prescribed by the sections 151 and 86 of the LGA. A draft statement of proposal is attached. Given the relatively minor and technical matters under consideration, it is recommended that the Committee appoints a hearings subcommittee of four Councillors to hear submissions and report back to the Committee. Officers recommend that the subcommittee membership includes Portfolio Leader Transport (Public Transport and Roads), Portfolio Leader Transport (Walking, Cycling, Motorcycling, and Safety), Portfolio Leader Built Environment, and one other councillor. Draft terms of terms for the subcommittee are attached.

5.9 Financial Considerations

The cost of this project is covered in operational budgets.

5.10 Climate Change Impacts and Considerations

There are no climate change impacts of these proposals.

5.11 Long-Term Council Community Plan Considerations

There are no impacts on the Long Term Council Community Plan.

6. Conclusion

A technical review of the bylaw provisions relating to parking and traffic has identified a number of proposed changes to bring the bylaw up to date and correct errors.

Attached:

Appendix 1: Draft Statement of Proposal: Proposed changes to the public places and traffic parts of the Wellington City Consolidated Bylaw 2008 to address parking and traffic issues.

Appendix 2: Draft Terms of Reference: Review of Consolidated Bylaw (Traffic Provisions) Subcommittee

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Supporting Information

1) Strategic Fit / Strategic Outcome

The statement of proposal recommended by this report supports the Council's strategic outcomes.

2) LTCCP/Annual Plan reference and long term financial impact

There are no LTCCP impacts of this report.

3) Treaty of Waitangi considerations

No Treaty of Waitangi issues have been identified in this report.

4) Decision-Making

Amendments to a bylaw must be made using the special consultative procedure and adopted by Council. The changes proposed to the bylaw are minor, and are not significant.

5) Consultation

a) General Consultation

Changes to the consolidated bylaw require the use of the special consultative process.

b) Consultation with Maori

Changes to the consolidated bylaw require the use of the special consultative process. None of the issues identified have any specific implications for Maori.

6) Legal Implications

Legal advice has been received on the matters addressed in this report.

7) Consistency with existing policy

The proposed changes to the bylaw relate to technical and operational issues, and not to changes in policy.