

REPORT 3
(1215/52/IM)

STATEMENT OF PROPOSAL FOR CONSULTATION ON TRAFFIC BYLAW AND TAXIS USING PAY AND DISPLAY AREAS

1. Purpose of report

The Strategy and Policy Committee agreed that officers would report back to Strategy and Policy Committee on 3 August 2012 with a proposal under part 7 of the Wellington City Consolidated Bylaw 2008 to review the bylaw including to impose a restriction on the use of pay and display parks by taxis in the following streets – The Terrace, Bond St, Featherston St, Pipitea St, and Waring Taylor St.

The Statement of Proposal for this change is attached to this paper.

2. Executive summary

This paper provides the Statement of Proposal for consultation on changes to the Bylaw. It introduces a definition for a 'taxi' into the Part 7 of the Bylaw, based on the definition in the Land Transport Act 1998.

The statutory definition has three components. To be a taxi, a vehicle must:

- a) be a small passenger service vehicle; and
- b) be fitted with a sign on its roof displaying the word "taxi" and any other signs required by regulations or Land Transport rules; and
- c) be in use or available for use for hire or reward for the carriage of passengers other than on defined routes.

The definition of "taxi" to be introduced into the Bylaw will only adopt the first two components of the statutory definition.

A further clause is recommended to be added to clause 4.1 of the Bylaw stating that a Taxi (as defined) cannot use Pay and Display parking in nominated areas where their use of parking is a particular issue. This does not limit taxis operating in their normal business. The restriction applies if they use metered parking as a taxi rank waiting for business or when they are not for hire and have not removed the taxi signage.

A Taxi can remove its signage to park as a private vehicle. However if it is "fitted with a sign on its roof displaying the word "taxi" and any other signs required by the regulations or the rules" and it is parked within a restricted area, it will be considered a taxi and ticketed accordingly.

3. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Agree to the proposed amendments to Part 7 of the Bylaw, introducing restrictions on taxis use of metered parking*
3. *Agree that the proposed changes undergo public consultation in accordance with section 22AD of the Land Transport Act 1998 and recommend to Council to adopt the Statement of Proposal attached, and to initiate the special consultative procedure under Section 83 of the Local Government Act 2002.*

4. Background

The issue for Council to consider is how to balance the competing demands for parking space between different road users. In this case, the use of P&D parking spaces by taxis in the central city is causing concern for the public and also for parking wardens.

As a result of this issue, on 15 December 2011 SPC resolved

THAT the Strategy and Policy Committee ... Agree that officers prepare a proposal under part 7 of the Wellington City Consolidated Bylaw 2008 to impose a restriction on the use of pay and display parks by taxis, for consideration of the Strategy and Policy Committee in early 2012.

A paper was presented to SPC on 10 May 2012 setting out options for changing the Bylaw, but recommending no change be made at that time in the Bylaw. The Committee moved an amendment to the recommendations

THAT officers will report back to Strategy and Policy Committee on 3 August 2012 with a proposal under part 7 of the Wellington City Consolidated Bylaw 2008 to review the bylaw including to impose a restriction on the use of pay and display parks by taxis in the following streets – The Terrace, Bond St, Featherston St, Pipitea St, and Waring Taylor St.

Under the Land Transport Rule: Operator Licensing Rule 2007 (the Operator Licensing Rule 2007) taxis are allowed to park to pick up or set down passengers or luggage, to park on a designated stand, to lawfully park, or to park waiting for a hirer who has already hired the vehicle.

However in some areas taxis are not complying with parking regulations and are using Pay and Display areas to park, usually without paying parking fees, while waiting for hire, preventing members of the public from finding a park. This is a source of regular complaints from the public.

The amendment to the bylaw seeks to provide clarity by introducing a definition of “taxi” based on the definition used in section 2 of the Land Transport Act 1998.

With this amendment to the bylaw, a taxi (defined as a small passenger vehicle with the legally required taxi signage) will only be able to park in the restricted area if they are on a taxi rank, picking up or setting down passengers or luggage, or parked waiting for a hirer who has already hired the vehicle. They will not be able to park in metered parking in the restricted area without removing or obscuring the taxi signage. If they remove the signage required under Operator Licensing Rules 2007 they can park in these areas or alternatively if they do not want to remove the signage they can park in a parking building or in other parks within the city.

5. Discussion

5.1 Changes to the ByLaw

The following changes can be made to Part 7 of the Bylaw to address this issue.

5.1.1 Definitions

The following definition would be added to the definitions in clause 1.1 of Part 7 of the Bylaw, clarifying the definition of a Taxi and introducing a Taxi Restricted Parking Area.

Taxi means a motor vehicle that is:

- a. a small passenger service vehicle; and
- b. fitted with a sign on its roof displaying the word 'taxi' and any other signs required by law.

Taxi Restricted Parking Area means the area or areas of Road identified as such by Council resolution from time to time.

The proposed definitions and the departure from the usual statutory definition of 'taxi' are authorised by section 22AB(1)(m) of the Land Transport Act 1998. That provision allows the Council to limit the stopping, standing, or parking of vehicles on any road to vehicles of a specified class or description. The provision also states that the Bylaw may provide that a vehicle used for the time being for any specified purpose must be treated as being of specified class or description.

5.1.2 Additional Bylaw Clause

The following clause is to be added to Part 7 of the Bylaw as Clause 4.1 (h)

4.1 (h) A Taxi may not stop, stand or park in any Metered Area in the Taxi Restricted Parking Area, unless it is on a designated stand as defined in the Land Transport Rule: Operator Licensing 2007 or it is waiting for a hirer who has already hired the vehicle.

The qualifications to the proposed clauses reflect the terms of clause 3.3(13) of the Operator Licensing Rule 2007, which allow taxis to stop on the road in certain circumstances. Section 160(7) of the Land Transport Act 1998 provides that Land Transport Rules (such as the Operator Licensing Rule 2007) override bylaws made under section 22AB, to the extent of any inconsistency. As such,

the Bylaw cannot restrict the parking of taxis in situations where that is expressly allowed by the Operator Licensing Rule 2007.

5.1.3 Taxi Restricted Parking Areas

This is a particular issue in a small number of areas in the central city where parking space is at a premium. This includes the following areas:

- Bond Street
- Pipitea Street
- Waring Taylor Street
- The Terrace, by Aurora Terrace
- And areas of Featherston Street.

A straightforward approach would be for the scope of any 'Taxi Restricted Parking Area' to be defined by Council resolution from time to time. That approach is authorised under section 22AB(3) of the Land Transport Act 1998. The definition of 'Taxi Restricted Parking Area' would mean the area or areas of Road identified as such by Council resolution from time to time.

Officers suggest that the first resolution of this nature should include the above areas and recommend this over a restriction on all metered areas.

5.1.4 Other medium term options

Other options that could be considered over time are to work with the industry to develop other options to manage access to taxi parking. These could include exploring;

- Feeder areas within the city, similar to the areas used at the airport. Larger groups of taxis could then park in a particular location waiting for work and either feed into taxi ranks in the CBD as they become free, be hired from that location or can move off as jobs are allocated.
- Permits or licences for the use of taxi ranks.
- Increase the number of restricted areas.

Consultation will offer the opportunity for respondents to propose solutions to the issue.

5.2 Consultation and Engagement

To amend the Bylaw will require public consultation which will enable the taxi industry and the public to respond to the changes. Section 22AD of the Land Transport Act 1998 requires the use of the special consultative procedure set out in section 83 of the Local Government Act 2002 before Part 7 of the Bylaw is amended as proposed.

5.3 Financial considerations

The financial impact arising from this change includes:

- undertaking public consultation for the change;

- the requirement for new signage in restricted parking areas should this option be chosen by Council; and
- notifying the taxi industry of the change in bylaw.

5.4 Climate change impacts and considerations

There are no climate change impacts or considerations.

5.5 Long-term plan considerations

There are no LTP considerations.

6. Conclusion

This paper provides the Council with options to consider including in Part 7: Traffic of the Wellington City Consolidated Bylaw 2008 to address the situation where taxis are parking in Metered Parking areas.

This introduces a definition of taxis into the bylaw and restricts taxi parking in metered areas.

If changes to the bylaw are agreed by the Strategy and Policy Committee, the draft bylaw will undergo public consultation and feedback from this will be reported back to Council for approval on any changes to the Bylaw.

Contact Officer: *Colleen Thessman, Manager Parking Services; Geoff Lawson, Principal Programme Advisor.*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

The change in Bylaw supports the Council's overall vision of a Dynamic Central City which is accessible and liveable. The change supports Council's role as regulator of street spaces to ensure that as many people as possible can access parking spaces within the city and without road obstruction.

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

Operational expenditure is required to cover public consultation and any additional signage if required.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications

4) Decision-making

This is not a significant decision. The report sets out a number of options and recommends Council decides whether additional controls should be applied and, if so, how this control might be applied. This would then be subject to public consultation.

5) Consultation

a) General consultation

Council is required under legislation to consult on this matter.

b) Consultation with Maori

Mana whenua have been provided with a draft of the policy.

6) Legal implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

This report recommends certain measures which clarify existing WCC parking policy.

STATEMENT OF PROPOSAL TO AMEND TAXI AND PARKING PROVISIONS IN THE WELLINGTON CITY CONSOLIDATED BYLAW 2008 PART 7 – Traffic

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APPENDIX 1:

Wellington City Consolidated Bylaw 2008 Part 7– Traffic

1. Introduction

This statement of proposal about changes to the Wellington City Consolidated Bylaw 2008 Part 7 – Traffic is being published so we can find out what Wellingtonians and stakeholders think about some proposed taxi and parking changes. These involve some restrictions on where taxis can park in certain parts of the central city.

The amendments are proposed in accordance with the Local Government Act 2002 (LGA 2002) and the consultation will meet the requirements of section 83 of the LGA 2002 and section 22AD of the Land Transport Act 1998.

This document contains:

- background information
- an outline of the review process required under the LGA 2002
- an identification of the ‘perceived’ problem
- an impact analysis of the proposed amendments
- the text of the proposed amendments to the traffic bylaw.

2. Have your say

Wellington City Council (the Council) is keen to know what people think about the proposed amendments. A submission form is included in this document. Additional copies are available online at Wellington.govt.nz and at the City Service Centre and libraries. You can also get copies by emailing policy.submission@wellington.govt.nz or phoning 499 4444.

The Councillors will consider all the submissions before deciding whether to adopt the proposed changes to the traffic bylaw. Submitters can speak to the Councillors by making an oral submission. These will be heard by the Strategy and Policy Committee in November 2012.

Please make a submission online at Wellington.govt.nz, email your submission to policy.submission@wellington.govt.nz or fill in the attached submission form and send it to Taxi and Parking Bylaw Changes, Freepost, Wellington City Council, PO Box 2199, Wellington.

Written submissions open on 11 September 2012 and close at 5pm on the 19 October 2012.

3. Background

The Council provides more than 12,000 on-street parking spaces in the central city and surrounding area. Of these parking spaces, around 6000 are in the CBD. These parks include spaces for taxis, couriers, people with disabilities, bus stops, diplomatic services and others. To ensure that as many people as possible can use these parking spaces and that our roads are free of obstructions, the Council regulates and enforces parking times and applies charges using meters and pay-and-display machines at about 3400 of these spaces. This is done through Part 7: Traffic of the Wellington City Consolidated Bylaw 2008 (the bylaw).

There are 1237 taxis licensed to operate in Wellington City. With many of these in the CBD, an issue has arisen where taxis are using pay-and-display parking spaces without paying, preventing other people from using them. This is a greater issue in some areas than others.

It is recommended that the bylaw is amended to introduce controls on taxis parking in these areas.

To address this issue, it is proposed that a definition for a 'taxi' is introduced into part 7 of the bylaw, based on the first two parts of the definition in the Land Transport Act 1998. To be a taxi, a vehicle must;

- a) be a small passenger service vehicle; and
- b) be fitted with a sign on its roof displaying the word "taxi" and any other signs required by regulations or Land Transport rules

A further subclause would be added to clause 4.1 of the bylaw stating that a taxi (as defined) cannot park in nominated areas where their use of parking is a particular issue unless it is on a designated stand, as defined in the Land Transport Rule: Operator Licensing 2007, or it is waiting for a hirer who has already hired the vehicle.

This restriction could apply to all metered parking areas or specific taxi restricted parking areas as defined by Council resolution from time to time. At this point, it is proposed these areas include:

- Bond Street
- Pipitea Street
- Waring Taylor Street
- The Terrace, by Aurora Terrace
- And areas of Featherston Street.

A taxi can remove its signage to be used as a private vehicle, however if it is "fitted with a sign on its roof displaying the word 'taxi' and any other signs required by the regulations or the rules" and it is parked within a restricted area, it will be considered a taxi and ticketed accordingly.

4. Legislation

The following legislation is relevant to the proposed amendment:

Land Transport Act 1998

This requires the Council to use the special consultative procedure in the LGA 2002 to amend the bylaw.

Land Transport Rule Operator Licensing 2007 – Duties of drivers relating to obstruction of other small passenger service vehicles or road

The rule describes the rights and obligations for taxis using parking spaces.

5. Development of the proposed amendment

5.1 Land Transport Act 1998 requirements

The bylaw was created in accordance with section 22AB of the Land Transport Act 1998. Section 22AD of the Land Transport Act 1998 states that the Council must use the special consultative procedure provided in section 83 of the LGA 2002 to amend the bylaw. To assist with that process, the sections of this statement of proposal that are set out below follow the framework for bylaws made under the LGA 2002.

5.2 The 'perceived' problem

Taxis are continuing to use metered parking spaces when they are for hire and waiting for a fare. This is a particular problem in the central business district, where parking is limited, and generates complaints from the public, who are unable to use the parking spaces. The powers under the current bylaw make it difficult for parking wardens to determine whether the taxi is parked legally or whether they can issue an infringement notice or require it to move to another location.

Under the proposal, taxis would be able to continue to use taxi ranks in these areas and set down and pick up passengers.

5.3 Is a bylaw the most appropriate way to address the problem and is it the most appropriate form of bylaw?

The reason for the changes to the traffic bylaw is to clarify the powers of parking wardens in relation to taxis using metered parking spaces when they are waiting for a fare.

Without a change to the bylaw, the rules for parking wardens enforcing the existing bylaw would remain unclear. The Council has already decided to use a bylaw to control parking in the central business district so an amendment to this bylaw is the most efficient way to address this issue. On this basis, an amendment to the bylaw is the appropriate method to address the perceived problem.

5.4 Bill of Rights implications

The Council must determine whether the proposed amendment to the traffic bylaw has any implications under the Bill of Rights Act (BORA). In reaching a conclusion on that, it is important to remember that under section 5 of the Act, all rights can be impinged upon if it can be shown that what's proposed is a reasonable limitation that is justified in a free and democratic society.

The proposed changes to the traffic bylaw do not restrict any rights in the BORA. The use of metered parking spaces by taxis in busy areas prevents the public from using them. Taxis are able to park legally in areas to set down and pick up passengers and on taxi ranks within restricted areas. They can also park outside the nominated restricted areas or if they have removed or obscured the required taxi signs, they can park as a private vehicle in any parking space.

6. Process and proposed timeline

This consultation is being undertaken as a special consultative procedure. Public and targeted consultation is planned.

APPENDIX 1

The timeline for considering the proposed changes to the traffic bylaw is as follows:

11 September 2012 – 19 October 2012	Consultation period
November 2012	Oral submissions heard
December 2012	Strategy and Policy Committee considers report on all written and oral submissions received
February 2013	The Council decides whether to adopt the proposed changes
Following Council adoption of the proposed changes	The amended traffic bylaw will come into force

Draft Bylaw

Wellington City Consolidated Bylaw 2008

Part 7: Traffic

The following changes are proposed for the Bylaw.

A) New definitions would be introduced to section 1.1 of the Bylaw

1. Definitions and Interpretation

1.1 In this part of the Bylaw, unless the context otherwise requires:

Taxi means a motor vehicle that is:

- c. a small passenger service vehicle; and
- d. fitted with a sign on its roof displaying the word 'taxi' and any other signs required by law.

Taxi Restricted Parking Area means the area or areas of Road identified as such by Council resolution from time to time.

B) Section 4.1 h. would be added to Section 4 of the Bylaw.

4. Parking at Parking Meters

4.1 In respect of areas controlled by parking meters:

- h. A Taxi may not stop, stand or park in any Metered Area in the Taxi Restricted Parking Area, unless it is on a designated stand as defined in the Land Transport Rule: Operator Licensing 2007 or it is waiting for a hirer who has already hired the vehicle.