

## **TRAFFIC BYLAW AND TAXIS USING PAY AND DISPLAY AREAS**

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### **1. Purpose of Report**

The Strategy and Policy Committee requested that officers prepare a proposal 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. This report responds to this request and presents to Council options to amend the Traffic Bylaw to impose such a restriction.

It recommends that the Bylaw is not amended at this point. It is due for review in 2013 and officers will continue to monitor the situation.

### **2. Executive Summary**

The issue for Council to consider is how to balance the competing demands for parking space between different road users. In this case, between taxis offering services to the public, the public wanting access to local businesses, and businesses wanting parking for customers.

The Council provides more than 12,000 on-street parking spaces in the central city and surrounding area. Of these spaces, around 6,000 are in the CBD. Spaces are provided for taxis, couriers, people with disabilities, bus stops, diplomatic services and others. The Council regulates and enforces parking times and applies charges using meters and pay-and-display machines at around 3,400 spaces to ensure that as many people as possible can park and the road network is free of obstructions. This is done through Part 7: Traffic of the Wellington City Consolidated Bylaw 2008 (the Bylaw).

There are 1,237 taxis licensed for Wellington City operating within this area and many of these operate within the CBD. Due to the high demand for parking and the number of taxis operating in the CBD, an issue has arisen where taxis are parking in pay and display areas. This is a greater issue in some areas than others.

The Committee requested options on how to address this issue through the bylaw.

To manage this issue a definition for a 'taxi' could be introduced into 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.*

Because of enforcement difficulties encountered in relation to the last component, the definition of "taxi" would only adopt the first two components.

A further clause could 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.

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

As the problem is confined to definable areas any response should be targeted. The Council would need to ensure that parking spaces are available to the public but without a blanket approach to taxi parking. There is a risk that introducing this amendment may solve one issue but will shift the enforcement issues elsewhere and the taxis may still park for free in another location.

Given the need to balance any response to address the problem it is not proposed to review the bylaw. The bylaw is due for review in 2013. It is recommended that the situation continues to be monitored by officers.

### **3. Recommendations**

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Note that this paper responds to the request from the Strategy and Policy Committee for officers to 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.*
3. *Note that while there are options to make changes to the bylaw, officers recommend that no changes are made to this bylaw at this point.*
4. *Agree that officers will continue to monitor this situation and could include this issue in the future consultation on this bylaw planned for 2013.*

## 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 pay and display 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.*

Under the Land Transport Rule: Operator Licensing Rule 2007 (the Operator Licensing Rule 2007) (refer to Appendix 1 for relevant excerpt), taxis are allowed to park:

- to pick up or set down passengers or luggage
- on a designated stand
- to lawfully park
- waiting for a hirer who has already hired the vehicle.

In some areas taxis are not complying with these regulations and are using pay and display areas to park while waiting for hire, preventing members of the public from finding a park. These taxis are not stopped to pick up or set down passengers or luggage, and they are not on a designated stand, lawfully parked, or waiting for a hirer who has already hired the vehicle.

The Council receives approximately 6 mainly verbal complaints each week regarding the use of pay and display parking by taxis.

This issue is difficult for the traffic wardens to enforce as taxi drivers often claim:

- they are waiting for someone who has already hired the vehicle, which is difficult for a warden to easily verify
- or they are using the vehicle for private purposes (not for hire) and are able to park as a private vehicle for up to 5 minutes without payment.

The possible amendment to the bylaw would seek to provide clarity by introducing a definition of “taxi” based on the definition used in section 2 of the Land Transport Act 1998. A taxi (defined as a small passenger vehicle with the legally required taxi signage) would only be able to park in the restricted area if they were on a taxi rank, picking up or setting down passengers or luggage, or parked waiting for a hirer who had already hired the vehicle.

If the taxi removed the signage required under Operator Licensing Rules 2007 they could park in these areas. Alternatively if they did not want to remove the signage they could park in a parking building or in other parks within the city.

## **5. Discussion**

### **5.1 The Problem**

There is high demand for parking in the CBD and taxis occupying pay and display parks are creating an issue for the public and local businesses.

A range of factors contributes to this issue:

- the number of taxis now operating in Wellington and the limited parking spaces allocated between different users
- the availability of off street space where taxis can wait for work (e.g. Wellington Combined uses the James Cook and Amora hotel front parking as off street queuing). However some firms rely on “hail” business alone so do not use off street parking space
- the unwillingness of taxis to pay if they park in a pay and display area, where in most cases they avoid payment if possible.

Under existing regulations, parking wardens are placed in a difficult situation in enforcing parking regulations with taxis using pay and display areas without payment. A taxi driver can contend that they are:

- waiting for a hirer who has already hired the vehicle. In this case the warden has to request evidence from the driver that this is in fact the case or wait to ensure that the person hiring the taxi arrives
- not for hire or are using the vehicle in a private capacity for any number of reasons and they are therefore able to park for up to 5 minutes without payment and the taxi can then move on.

The taxi is often not complying with parking regulations, i.e. it is waiting for business in which case it should be on a taxi stand. It does not pay for the use of the parking space, and increases parking congestion creating an issue for the public and local businesses.

This paper considers how changes to the bylaw could address this issue. If the imposition of controls on the use of pay and display spaces by taxis was considered appropriate, there are two potential options to consider:

- the restriction could be placed on taxis in known problem areas
- or it could apply to all Metered Areas.

The Committee should note that a bylaw change would apply to Metered Areas only and would not address the issue where this occurs in time limited parking in suburban centres.

### **5.2 Changes to the Bylaw**

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

#### **5.2.1 Definitions**

The following definition could 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.

### ***5.2.2 Additional Bylaw Clauses***

The following two options could be considered for additions to Part 7 of the Bylaw as Clause 4.1 (h)

#### **EITHER OPTION 1**

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.

#### **OR OPTION 2**

4.1 (h) A Taxi may not stop, stand or park in any Metered 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 that are expressly allowed by the Operator Licensing Rule 2007.

### **5.2.3 Option 1 - Taxi Restricted Parking Area**

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 possibly 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.

If Council proceeded with an amendment in the future, officers suggest that the first resolution of this nature should include the above areas, rather than a restriction on all metered areas.

#### **5.2.4 Option 2 - All Metered Areas**

A restriction placed on all Metered Areas in the city could be considered. This would restrict the use of metered parking for any taxi (as defined) across the city. Taxis would still be able to use taxi ranks, or stop to pick up or set down passengers.

While a restriction on all metered parking is clearcut, it could be seen to be onerous in requiring a taxi to remove signage to park legally in these areas where parking is available. This could be seen as going beyond what is required to address the issue and therefore more likely to be subject to a legal challenge.

The definition of a 'Taxi Restricted Parking Area' would not be required under this option.

#### **5.3 Risk and other medium term options**

The risk is that while a bylaw amendment could address the problem in particular areas, it will shift taxis into other parks within the city. Taxis may still be parking for free and taking up parks that the public may wish to park in.

A longer term option is to work with the industry to develop 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 then feed into taxi ranks in the CBD as they become free, be hired from that location, or can move off as jobs are allocated.

Officers recommend that this issue continues to be monitored and any amendment to the bylaw be postponed till the review of the bylaw, due in 2013. Any consultation at that point could offer the opportunity for respondents to propose additional solutions.

## **6. Other considerations**

### **6.1 Consultation and Engagement**

The Committee should decide whether this issue should be included in a future review of the bylaw, due in 2013.

A Bylaw amendment will require public consultation to enable the taxi industry and the public to respond to the proposed 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 could be amended.

Officers have met with the Taxi Federation and the Chief Executive of Wellington Combined Taxis to discuss options. The issue was acknowledged as a real issue and one that has existed for a long time. One option discussed was a

partnership approach to identify additional off street parking areas for taxis to queue while waiting for hire. However this would not assist those taxi firms that rely solely on walk up business on the street and who would not use these areas.

### **6.2 Financial Considerations**

There is no immediate financial impact arising from this paper. Should changes be introduced, costs could include:

- 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.

### **6.3 Climate Change Impacts and Considerations**

There are no climate change impacts or considerations.

### **6.4 Long-Term Plan Considerations**

There are no Long-Term Plan considerations.

## **7. Conclusion**

This paper discusses the issues and options to amend Part 7: Traffic of the Wellington City Consolidated Bylaw 2008 to address the situation where taxis are parking in Metered Parking areas.

The options would introduce a definition of taxis into the bylaw and restrict taxis parking in metered areas.

Officers recommend that no change be made to the bylaw at this point, but that this issue is considered in future reviews of the bylaw.

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## Supporting Information

### **1) Strategic Fit / Strategic Outcome**

*The potential change in Bylaw supports the Council's overall vision of a Dynamic Central City which is accessible and liveable. This 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) Long-Term Plan/Annual Plan reference and long term financial impact**

*No operational expenditure is 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 that the situation continues to be monitored at this point.*

### **5) Consultation**

#### **a) General Consultation**

*Council would be required under legislation to consult on this matter should any change to the bylaw be proposed.*

#### **b) Consultation with Maori**

*Mana whenua will be provided with a draft of the policy during consultation.*

### **6) Legal Implications**

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

### **7) Consistency with existing policy**

*This report clarifies existing WCC parking policy*

## APPENDIX 1

### Land Transport Rule Operator Licensing 2007 Rule 81001

#### **Duties of drivers relating to obstruction of other small passenger service vehicles or road**

3.3 (11) A driver of a small passenger service vehicle that is not immediately available for hire must not allow that vehicle to be parked in a place or manner that is likely to impede or interfere with the operation of another small passenger service vehicle that is available for hire.

3.3 (12) Subject to 3.3 (13), a driver of a small passenger service vehicle must not stop the vehicle on a road longer than is reasonably necessary for the purpose of loading or unloading luggage, picking up or setting down passengers, or for any other lawful purpose.

3.3 (13) Subclause 3.3 (12) does not apply to a small passenger service vehicle that is:

- (a) on a designated stand; or
- (b) lawfully parked; or
- (c) waiting for a hirer who has already hired the vehicle.