



Waitakere City Council

Office of the Chief Executive, Harry O'Rourke, MNZM, JP, ANZIM

5 July 2007

Ministry of Transport
PO Box 3175
WELLINGTON

Attention: Oliver Suri

Dear Sir

MINISTRY OF TRANSPORT REVIEW – TRANSPORT ACT 1962: LOCAL AUTHORITY ENFORCEMENT ACTIVITY

Introduction

1. Waitakere City Council ("Waitakere City") has taken the opportunity of reading the Ministry of Transport's ("MOT") position paper on Local Authority Enforcement Activity, and appreciates the opportunity to make submissions.
2. The flow of people, and goods and services are vital to a community's economic wellbeing. In its transport strategy, Waitakere City has taken a balanced approach to investment in roads, passenger transport and traffic management with a key objective to provide an integrated and effective service to the City.
3. Waitakere City's transport strategy includes the following initiatives:
 - (a) Reduce congestion in parts of the network through traffic management; and
 - (b) Encourage alternative means of transportation such as: walking, cycling, passenger transport or car pooling.
4. Parking enforcement is an integral part of this strategy in that it provides consistent and regular enforcement of stationary vehicles. This regime encourages a safe and efficient turnover of parked vehicles minimises illegal parking, and contributes to the efficient and equitable use of the city's roads.

A. Powers of Local Authorities to Enforce Traffic Offences

5. Waitakere City is an enforcement authority as defined by s. 2(c) of the Transport Act 1962 ("the Act").
6. Waitakere City parking wardens are appointed pursuant to s. 7 of the Act, and carry out the enforcement of all of the provisions and offences specified in relation to stationary vehicles offences referred to in Schedule 2A of the Act, in accordance with s68BA of the Act. These offences are as follows:
 - (a) Parking in a portion of a road in breach of any act or regulation, or of any bylaw made under s. 72 of the Act;

- (b) An offence against s. 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 ("TVDR L Act"), which relates to the use on the road of unlicensed or unregistered vehicles;
 - (c) An offence against s. 17 of the TVDR L Act relating to the use of a vehicle on the road that has unauthorised, deceptive or obscured registration plates or an unauthorised licence;
 - (d) An offence against s. 34(1)(b) of the Land Transport Act 1998 ("LTA 98") relating to the operation of a vehicle without current evidence of a vehicle inspection or a certificate of loading; and
 - (e) Any offence against any regulations made under the Act, or the TVDR L Act that is declared by the regulations to be a stationary vehicle offence.
7. Part of Waitakere City's strategic direction is to provide a safe city. In order to meet the objectives for a safe city as identified by the community, and stated in the Long Term Council Community Plan (2003-2013) ("LTCCP"), Waitakere City parking wardens require powers that will combat vehicle offences which go beyond the stationary vehicle offences provided for in the current Act.
8. Currently, NZ Police does not have the resources to ensure proper policing of offences at the lower end of the enforcement scale. The high number of other more serious offences dealt with by Police means these lower level offences are low priority resulting in low levels of enforcement.
9. The lack of practical and consistent enforcement of lower level vehicle offences undermines:
- (a) Public confidence in the enforcement regime;
 - (b) Waitakere City's objectives for a safe city;
 - (c) Road safety initiatives; and
 - (d) The convenient use of roads by the public.
10. Waitakere City considers that there are additional traffic offences that could be effectively enforced by local authority enforcement officers, easing the burden of enforcement on the Police.
11. Waitakere City seeks the inclusion of the following offences within the powers of local authority enforcement officers:
- (a) Red light camera offences;
 - (b) Speed (fixed and static) camera offences;
 - (c) Road user charges offences;
 - (d) Failure to stop at compulsory stop signs;
 - (e) Offences relating to pedestrian crossings;
 - (f) Overtaking on yellow lines;
 - (g) Failure to give way;
 - (h) Driving on footpaths and berms;

- (i) Driving the wrong way on one way streets;
 - (j) School patrol offences;
 - (k) Seat belt offences;
 - (l) Child restraint offences;
 - (m) Flush median offences;
 - (n) Ordering unsafe vehicles off the road;
 - (o) Points duty and traffic direction;
 - (p) Provision to request names and addresses, and sanctions for a refusal.
12. Waitakere City considers that the existing role of parking warden should be replaced by a category of local authority enforcement officer status to allow for the expanded scope of duties, and enable enforcement officers to enforce a broader range of offences.

Special Vehicle Lanes

13. Waitakere City plans to introduce special vehicle lanes ("SVL") in the near future for the purpose of better management of traffic flows in peak hour times.
14. Currently Waitakere City is able to enforce SVL's in accordance with s. 2 LTA following an amendment in 2006 that authorised local authorities to enforce SVL's. This authorisation is due to expire 1 July 2009 along with the other provisions of the TA still in force. Once this provision expires, Waitakere City will have no mechanism to enforce offences in SVL's.
15. Accordingly, Waitakere City submits that:
- (a) SVL enforcement be consistent with other low level vehicle enforcement measures;
 - (b) Enforcement procedures for SVL's should be consistent across all local and territorial authorities nationally; and
 - (c) The owner liability provisions of the Act to be applied to future SVL enforcement regime under the LTA.

B. Infringement Fees

16. The current regime of infringement fees for parking offences is enforced by parking wardens. The present scheme has some practical drawbacks particularly in terms of the following:
- (a) Value of the infringement fees and the effect of this on compliance; and
 - (b) Revenue Sharing Regime ("RSR").
17. First, in relation to the value of infringement fees, Waitakere City considers that:
- (a) The fees are too low and offer limited deterrence value;
 - (b) The current fee structure does not encourage compliance, especially at the bottom end of the scale;
 - (c) The fee does not cover the cost of enforcement;

- (d) Fees set for towage and storage bears no resemblance to actual costs.
18. Secondly, in relation to RSR, Waitakere considers that:
- (a) RSR was introduced in 1989 and is now out date. It does not adequately reflect the present regulatory and enforcement environment;
 - (b) Territorial and local authorities are not adequately compensated for the costs associated with enforcement and collection;
 - (c) The requirement to share revenues can operate as a disincentive for local authorities to collect the debt;
19. Waitakere City seeks the following in relation to the revenue sharing regime:
- (a) A review of fines guidelines by MOT;
 - (b) Surplus revenue should be apportioned after costs.

C. Bylaws as to the Use of Roads

20. Section 72 of the Act empowers local authorities to make a wide range of bylaws in relation to the use of roads under the local authority's control. Further powers relating to the use of parking spaces (including transport stations) are set out in s. 591A of the Local Government Act 1974 ("LGA 1974") and include the powers to make bylaws which:
- (a) Limit parking to particular categories of persons or vehicles; and
 - (b) Set reasonable parking fees for reserved and metered spaces...
21. Waitakere City is currently reviewing bylaws introduced under the LGA 1974.
22. Waitakere City seeks the following in relation to Bylaws:
- (a) All parking enforcement provisions should be contained in transport legislation;
 - (b) All parking offences should be subject to the owner liability provisions pursuant to the Act;
 - (c) Powers should be rationalised and consolidated into a single piece of legislation which should include LGA 1974 provisions such as the abandoned vehicles process; and the ability to set aside areas as parking spaces.

Conclusion

23. Waitakere City considers that there is a need for further consultation in relation to the role and scope of enforcement of local authority enforcement officers. Particularly, future consultation will need to focus on the changing nature of parking offences, whether or not there is a requirement to expand the role of a parking warden to encompass duties generally performed by the Police such as point duty, red light camera offences, and infringements for offences other than stationary vehicle offences.
24. A review of provisions governing powers of local authority enforcement officers requires a discussion on matters such as:
- (a) Future training requirements;
 - (b) Performance assessment requirement;
 - (c) Whether warrants will be required in relation to the increased scope of the role;

- (d) The role of the NZ Police and the Police Commissioner in determining the role of ; local authority enforcement officers;
- (e) The costs and benefits to local authorities and the Police of expanding the scope of local authority enforcement officers enforcement capability;
- (f) Requirements of New Zealand Bill of Rights Act 1990; and
- (g) Any other considerations.

25. In terms of entitlement to infringement fees, further consideration is required in terms of:

- (a) The adequacy of fees as a compliance and deterrence mechanism;
- (b) The impact of increased numbers of vehicles;
- (c) The actual costs of enforcement and the appropriate level of compensation; and
- (d) The RSR.

Yours faithfully



Harry O'Rourke, MNZM, JP, ANZIM
CHIEF EXECUTIVE OFFICER