



8 July 2007

Ministry of Transport
PO Box 3175
WELLINGTON

Attention: Oliver Suri.

Dear Oliver

**New Zealand Traffic Institute (TRAFINZ) submissions on the
Ministry of Transport review of the Transport Act 1962**

Introduction

The NZ Traffic Institute (TRAFINZ) represents a wide grouping of NZ local authorities and other organisations involved in various aspects of land transport. Its membership includes regional councils, the major metropolitan cities and smaller territorial authorities, and government agencies and private sector organisations. The Institute's Executive is comprised of elected councillors and officers drawn from a cross section of the local government membership, together with personnel representing its key agency partners and a number of senior technical staff from transport consultancies that volunteer their services *pro bono*. The Institute's primary focus is on transportation planning, traffic management, and road safety. It provides specialist advice to members on transport/traffic and safety issues, and also acts as a conduit for local authorities to respond to the NZ Government on proposed new and/or amended legislation.

TRAFINZ welcomes the opportunity to comment on the Ministry of Transport review of the Transport Act 1962, as follows:

A. Powers of local authorities to enforce traffic offences

Question A5

Are there any additional traffic offences which local authorities should be able to enforce? If 'yes' please specify the offence(s) concerned and give your reasons.

Yes. TRAFINZ holds the view that local authorities should have the power to enforce some additional offences as part of their traffic management responsibilities.

Examples of offences include, but are not limited to:

- i. Stationary vehicle/parking offences, particularly in relation to small passenger service vehicles (SPSV) such as taxis and shuttles, e.g. –

- Failure to remove SPSV from a road or specific portion of a road when directed to do so
 - SPSV driver impeding traffic/creating traffic hazard while cruising for hire. (Note: this offence may be covered under the Operator Licensing Rule 2007)
 - SPSV driver plying for hire within 20M of a stand
 - SPSV driver using a stand when not available for hire
 - SPSV driver failing to take correct position/failing to move forward on a stand
 - SPSV driver not in attendance with vehicle while it is parked on a stand
 - Inappropriate behaviour by driver of SPSV.
- ii. Moving vehicle offences – TRAFINZ considers it would be appropriate for local authorities to be empowered to enforce a limited range of moving vehicle offences that are amenable to being enforced via technology based systems. Examples of such offences include:
- Intersection offences detected by red light cameras or other approved surveillance equipment/system(s)
 - School crossing offences, such as passing a vehicle stopped at a school crossing and failing to comply with school patrol sign
 - Speeding offences detected by speed cameras
 - Road tolling offences.

Question A6

Is it necessary to have parking wardens as a specific category or should they be replaced by a category of enforcement officers able to enforce a broader range of offences?

In TRAFINZ's view it is not necessary to have parking wardens as a specific category, and in the interests of simplifying the legislation we suggest that instead of transferring the contents of s7 – Appointment of Parking Wardens – of the Transport Act 1962 into the Land Transport Act 1998 (the Act) it would be preferable to extend s208 of the Act to include provision for local authorities, via their chief executive, to appoint persons as enforcement officers with power to enforce a specified range of offences.

If necessary (for the avoidance of doubt) the powers of, and offences enforceable by, the new category of enforcement officer could be included as a schedule to the Act.

It is emphasised that we recommend this change on the 'proviso' that local authorities are empowered to appoint and warrant enforcement officers themselves, rather than having to rely on the Commissioner of Police to do so as at present. If this proviso is, for whatever reason, unable to be met then we would recommend that s7 as it stands be transferred into the Act, along with sections 68BA and Schedule 2A.

Refer also to comments in relation to questions A8 and A9 below.

Question s A8 & A9

A8 – If your authority does enforce special vehicle lanes, do you have any comments about the process of applying to the Police Commissioner for warrants issued to council staff or contractors for the purpose of enforcing these lanes?

and;

A9 – Do you have any other comments or suggestions you wish to make about the enforcement of special vehicle lanes?

In the interests of supporting modal shift and relieving congestion through encouraging more people to use public transport, several local authorities have in recent years been proactive in investing in and implementing initiatives such as transit and bus lanes.

Experience both nationally (primarily in metropolitan Auckland) and internationally has shown that consistent enforcement of these special vehicle lanes is one of the keys to ensuring they work efficiently and in a sustainable manner. Local authorities recognised that because of resource constraints the Police could not realistically be expected to provide the required enforcement coverage, which would inevitably have rendered the lanes ineffective.

Therefore, the local authorities that first implemented special vehicle lanes on a relatively large scale, i.e. North Shore City and Auckland city, also elected to enforce the lanes themselves. This largely compensated for Police resource constraints and enabled the councils to exercise a greater degree of control over the enforcement operation than would otherwise have been the case.

The current process by which local authorities wishing to take responsibility for enforcing special vehicle lanes must apply to the Commissioner to have staff and/or contractors warranted for that purpose is in TRAFINZ's view an unwieldy and unnecessary bureaucratic process, which acts as an impediment and disincentive to local authorities taking on this role, and detracts from their ability to exercise control over traffic management in their areas. This is exemplified by the delays we understand Wellington and Manukau Cities have experienced in the issuing of warrants to enable staff to enforce special vehicle lanes in those cities.

With the exception of the issuing of enforcement officer warrants, local authorities are responsible for all the work involved in special vehicle lane enforcement, from surveillance and issuing of infringement notices through to any court action that may arise. They have proven themselves to be capable of managing the process in a robust and professional manner, and we would submit they should have responsibility for the whole process inclusive of warranting the staff they employ/engage to enforce the lanes.

TRAFINZ therefore submits that s208 of the Act should be amended, as outlined in the Institute's response to question A6 above, to enable local authority chief executives to appoint and warrant enforcement officers for the purposes of enforcing amongst other things special vehicle lanes.

B. Infringement fees

Question B1.

Are the infringement fees for parking offences adequate to deter road users from committing offences and for encouraging compliance with traffic and road space management?

i. Parking Infringement fees –

TRAFINZ takes the view the current scale of infringement fees for parking offences is essentially a ‘one size fits all’ approach that does not reflect real world regional differences in the utility value of parking. For example a \$12 infringement fee is unlikely to have the same deterrent effect in Auckland or Wellington as it is likely to have in say Ashburton because of the significant price difference between the cost of parking in larger versus smaller centres.

TRAFINZ has for a number of years advocated the adoption of a more flexible scale of infringement fees, in which a maximum infringement fee is set by statute for ranges/groups of offences and local authorities then have the ability to set the infringement fee they will charge at any level up to the maximum.

To an extent this flexibility already exists in Part 1(1) of Schedule 2 of the 1962 Act. However we consider it could be extended to sub-parts 2 and 3 of Part 1 as this would better enable local authorities to set infringement fees at a level they consider adequate to encourage compliance.

We would therefore suggest that consideration be given to developing a more flexible fee schedule for parking offences. TRAFINZ is prepared to assist the Ministry of Transport in developing such a schedule.

TRAFINZ has a concern that there is no structured/formal mechanism in place for reviewing infringement fees, which results in the deterrent value of parking infringement fees (and no doubt other infringement fees) eroding over time. We therefore recommend that a fee review mechanism be developed and implemented whereby parking infringement fees are reviewed on say a bi or tri annual basis and adjusted in line with the movement in CPI between review dates.

ii. Towage fees associated with parking offences –

There is a wide variation between TRAFINZ local authority members in terms of whether or not the towage fees currently set out in the Transport (Towage Fees) Notice 2004 cover the actual cost towage incurred by their authorities

TRAFINZ is of the view that towage fees for the towing of illegally parked vehicles, i.e. enforcement tows, should be based on the actual cost incurred by the tow operator in providing the tow service. We are, however, conscious that factors such as land cost/rental for vehicle storage facilities, wage rates, travel time, etc differ significantly from region to region, which in turn means that a nationally based towage fee structure formulated on actual costs is likely to be complex to develop.

Therefore TRAFINZ supports retaining a towage fee structure in line with that currently set out the Towage Fees notice, but with the towage fees adjusted to bring them in line with the average cost of tows on a national basis.

C. Bylaws as to the Use of roads

Questions C4 & C5

C4 – Is there any advantage in having bylaw making powers on the use of roads contained within both transport and local government legislation?

And

Would it be preferable to rationalise and consolidate these powers into a single piece of legislation? If ‘yes’ should these powers be consolidated into transport legislation or local government legislation?

TRAFINZ considers there is no real advantage in having bylaw making powers on the use of roads within both transport and local government legislation, and that all of these powers ought to be consolidated into one piece of legislation.

The legislation we consider it would be most sensible to consolidate all bylaw making powers on the use of roads within is the **Land Transport Act 1998**.

On a somewhat separate matter we would also recommend that sections 356, 356A, and 356B of the Local Government Act 1974 – Abandoned vehicles – be moved from that act to sit within the Land Transport Act 1998.

TRAFINZ in the person of the Institute’s secretary is happy to discuss and elaborate on any of the matters raised above with the Ministry of Transport.

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