



Trafinz Submission
Police Act Review
Submission to the Police National Headquarters
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Trafinz (The NZ Traffic Institute) welcomes the opportunity to comment on the review of the Police ACT. Trafinz represents a wide grouping of NZ local authorities, covering the majority of the New Zealand population. Its membership ranges from regional councils, the major metropolitan cities and smaller provincial authorities. Its Executive is comprised of elected councilors, consultants, Police, government officials and local government officers, drawn from a cross section of the membership, together with senior personnel representing its key government partners and supported by 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 member authorities on traffic and safety issues by drawing from the depth of expertise available through its members and its nation wide Technical Committee. It also acts as a conduit for local authorities to respond to the NZ Government on new transport and safety policies, initiatives and directions.

Trafinz has worked in partnership with Police for some sixty years at operational, planning, strategic and collaborative levels. The Executive currently has an elected Police representative. The Institute believes that due to its very long association it can provide highly valuable experienced and knowledgeable input to the review from a local, regional and national perspective.

Trafinz has focused its submission on transport activity as from scientific research virtually every criminal act within our society has a transport component and hence policing and transportation are inexplicably linked.

Trafinz is happy to discuss and elaborate on any of the matters raised above. Our contact officer is the Chair of the Trafinz Technical Committee Steve Spence, Ph: (04) 803 8099. Email: steve.spence@wcc.govt.nz

Yours sincerely

A handwritten signature in blue ink that reads "John Gottler".

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Executive Summary

Trafinz from its 60 year association and relationship with Police believes that the new Act must empower the Police to deliver to our communities the safety and public well being that they seek. The Institute firmly believes that the Act must provide:

- The fundamental principles for Policing- the vision, the objectives and the quantifiable measures that are outcome focused.
- A sustainable funding basis – that establishes policing as an investment in society and not an annual cost.
- A Police Culture – that restores the Police credibility and respect within NZ society
- The ability for the use of resources, both manpower and technology to improve delivery.
- Emphasizes the importance of crime prevention and road trauma reduction to NZ society
- The ability for Police to collaboratively engage with its partners (such as Local Government)

Principles

Trafinz submits that the new Act must empower police by focusing on our community's desire for a safe and crime free life. It should emphasise road trauma reduction and crime prevention¹ The Police as custodians of law and order should lead the responsible prevention of crime within communities. For example Police should collaboratively engage with local government and Transit to achieve targeted crash reduction in transport related crime, including alcohol, speed, intersections and other enforcement outcomes to achieve casualty reduction outcomes.

The Institute believes a focus on proactive and visible "road" policing and the prevention of criminal activities would create significant cost savings for NZ communities in terms of hospitalisations, Accident Compensation Corporation's expenditure, prison rehabilitation, courts, public health, accessibility, environmental sustainability, safety and personal security. Trafinz holds the view that the police should be the primary enforcement agency but reserves the right to advocate for local authorities to have the powers to enforce offences that the police are unable to deliver to ensure that our communities outcomes are achieved.

Funding

Trafinz submits that police funding should be seen as an investment. It should target areas where success will see a reduction in the overall costs to all New Zealanders. It will need to focus on crime prevention and visible road policing with increased investment into resources, technology and operations to ensure that NZ Police can adequately contribute to a sustainable NZ. Appropriate resource allocations need to consider growth in various parts of the NZ and as such resource allocations need to adequately reflect the growth to ensure reduced incidents in crime and in casualties as a result of crashes. Supporting infringements with demerit points would go some way to reducing the perception that the focus of NZ Police is on generating income for government to balance annual expenditure rather than the long term goals and visions for attaining public good through crime prevention and improved safety.

Police Culture

Trafinz believes that the status of the Police within NZ society must be one of total respect as the protector of the public and as such police personnel must be beyond reproach. Sworn police personal must be a life long career choice and the organisation as an employer of choice for people that choose to make that commitment. The police organisation must protect the integrity and image of the Police on behalf of the public by ensuring that the culture is one that all individuals are fully accountable for there responsibilities and are fully committed to crime prevention and its minimisation within NZ society. Police today must be in tune with communities and the dynamics of society so that long term values and the highest achievable levels of crime prevention are achieved at all times.

The current policing framework is not suitable for all urban environments, where a significant proportion of road policing is delivered by general duties staff with little or no focus on crime prevention. This situation results in reactive and inadequate delivery of road policing as it is apparent that high priority calls take precedence over general road policing. Trafinz believes that more recognition needs to be given to road policing and traffic enforcement, including the primary goal to reduce traffic-related deaths and injuries while demonstrating to the public the positive effects of traffic patrols on crime reduction.

Technology

Trafinz is aware that policing in NZ has been significantly hindered by the existing Act's inability to enable the police to deploy appropriate technologies that facilitate crime prevention, reduce bureaucratic costs and enable police to focus on achieving real long term outcomes for society. This mistake made sixty years ago must not be repeated in the new Act.

¹ Crime prevention includes criminal activity associated with anti social behaviour as well as traffic law enforcement.

1. Understanding Policing

Trafinz believes that the current Act is comprehensively outdated. While the Act has enabled Police to work, in our view, collaboratively towards the delivery of “public good” this has largely been due to personalities and commitment by individual Commissioners and their staff. Trafinz sees that within the transport network to meet the goals and objectives of the LTMA (accessibility, public health, economic prosperity, environmental sustainability and the safety and security of New Zealanders) the old Act has never focused on achieving outcomes. The existing Act creates a focus on securing “blame” rather than the prevention of crime.

Trafinz defines policing as the ultimate form of education in that it shall:

- Prevent crime
- Create a healthier society
- Achieve statutory compliance
- Minimise offending and the costs of rehabilitation
- Align with the needs of individuals but ensure that the needs and requirements for the good of the public, locally, regionally and nationally are also catered for appropriately.

To active this Police need an Act that establishes:

- A vision for policing in New Zealand
- Enables the development of measures to achieve the vision’s outcomes and not merely bureaucratic achievements.
- Enables Local government and Police information sharing and systems integration.
- Embraces positive and proactive utilisation of technologies that save Police time and reduces costs.
- A code of conduct for individual to adhere to
- An employer/employee relationship that recognises competencies and rewards staff that engage and make a difference in obtaining New Zealand’s Policing vision.
- Recognition for the tremendous value in collaboration with local government to strive to obtain a multifaceted approach that focuses and achieves aligned outcomes.

Trafinz as it has for some sixty years, is committed to working in partnership with NZ Police to “make a difference” and to achieve the society that all New Zealander’s seek that is environmentally sustainable, safe and secure as well as economically prosperous.

2. Changes to legislation and use of technology

Any change to legislation needs to be flexible enough to allow the ability to use new techniques and technology to encourage changes in behavior. Overly bureaucratic legislation can detract from the actual policy goal being sought and instead compliance with the procedures defined within the Act becomes the goal. Changes to the Police Act should aim to reduce the procedural bureaucracy of current provisions to ensure ease of implementation and compliance. This would be consistent with the approach taken to the review of the Local Government Act 2002 that is more enabling than its predecessor is.

3. Local Government role and Police role

In order for local government and NZ Police to meet national safety and security objectives, changes are required to truly contribute to target at risk enforcement, education and engineering. Trafinz commends the commitment of the strategic traffic unit and the commitment to reducing the road toll, however there are a number of areas that are of concern:

The Police receive funding through Land Transport NZ for their role associated with road policing. The efforts of staff in the Strategic Traffic Unit must be commended. However, using Auckland as an example, of the 124 funded staff positions allocated to road policing in Auckland District, a significant proportion of the road policing task is delivered by general duties staff.

This situation results in reactive and inadequate delivery of road policing as it is apparent that high priority calls take precedence over general road policing.

Given the resource constraints facing the Police in local government believes that consideration needs to be given to determining if funding the Police for this role is the most effective and efficient means for delivering road safety and compliance outcomes or if the current structure is appropriate.

Much of the local governments' current traffic enforcement activity complements the duties of the NZ Police. For instance, Council enforcement of special lanes under the LTA 1998 was established in recognition of constraints on police time that might otherwise have rendered the establishment of special lanes ineffective. Parking enforcement or road safety staff have also assisted NZ Police at checkpoint operations.

Trafinz believes that there is merit in increasing the scope and range of infringements that it may enforce, particularly its role in respect of moving violations. This increase should not be considered a replacement of the role undertaken by the Police but an enhancement to increase levels of compliance.

An increased role for local authorities would compensate to some extent for resource constraints faced by Police. This would allow more effective deployment of the parking officer resource to effect real change in road user behaviour, traffic management and improved public safety.

It is also suggested that consideration be given to the practice of demerit points to supplement fines for certain moving and stationary vehicle offences (which would require consequential amendment to the Act to enable councils to issue demerit points in these circumstances).

Other areas where local authorities could usefully play a complementary role to the police are in promoting and ensuring public safety or managing road use includes checking that taxi drivers have appropriate licenses displayed. Again this will require enforcement powers.

4. Current policing framework

Road policing staff are currently integrated into districts. The inherent framework for road policing as described above also presents issues to ensure the alignment with strategic road policing outcomes and difficulties in achieving consistency and commitment in delivery of the strategic road policing outcomes. One suggested way of improving this situation is that road policing staff or strategic traffic have a direct

reporting line to the Road Policing manager whilst still physically remaining in the districts, for ease of access and mobility.

5. Police Culture

Trafinz has a very long relationship with the Police and has developed a relationship of mutual respect. Trafinz would like to work with NZ Police to develop a culture that places a major emphasis on crime prevention and reducing the road toll. It is believed that around 75% of crimes include some form of transport related activity and hence road policing provides an opportunity to significantly reduce overall crime rates, and consequently improve the quality of life in our communities.

Trafinz believes from some of the excellent current Police initiatives, such as speed zoning around schools, community policing etc, we are already working towards the development of a Police culture that places emphasis on achieving long term community outcomes. We believe this approach should be reinforced in the new Act.

Trafinz believes that more recognition needs to be given to road policing and traffic enforcement, with the primary goal to reduce traffic-related deaths and injuries while demonstrating also the positive effects of traffic patrols on crime prevention overall. This goal would be met by:

- Increasing traffic enforcement throughout the country, with an emphasis on speed and alcohol, Also intersection enforcement, impaired driving, youth offending and safety belt violations, targeting high crash locations.
- Increasing public support for traffic enforcement through education programmes and introduction of demerit points to complement or replace monetary fines.
- Reinforcing the relationship between traffic enforcement and reduction in wider criminal offending.

A growing body of international experience demonstrates the contribution that traffic enforcement has on crime. For example: The 10-week traffic enforcement campaign in Marion County, Indiana², yielded very significant results:

- 12,391 speeding citations
- 252 drink or drug driving offences
- 1,499 safety belt citations
- 850 miscellaneous traffic citations
- 33 habitual traffic offender arrests

The crime reduction benefits of traffic enforcement were clearly demonstrated as well during the 10-week period. Crime enforcement results include:

- 100 criminal misdemeanor arrests
- 46 criminal felony arrests
- 21 illegal firearms arrests
- 496 license violations

² the largest urban area in the State, accounting for approximately 17 percent of the total population. Similar to most urban areas, the county has been experiencing a growth in criminal activity, a serious concern to both the general public and the law enforcement community

Further international research showed that ³ around 47 percent of all arrests made by traffic enforcement personnel were for serious and criminal offences. Serious offences for which traffic enforcement personnel made arrests include 100 arrests for drug violations, 75 arrests for weapons violations, 71 arrests for theft and larceny, 59 arrests for fraud, 53 arrests for assault, 19 arrests for robbery, 17 arrests for burglary, 7 arrests for fraud and forgery, and one warrant arrest each for the crimes of kidnapping and murder. In addition, 11 runaway juveniles were taken into custody during the year as a consequence of traffic enforcement stops. The largest category among the serious violations encompasses the alcohol-related offences, which were responsible for 18 percent of all arrests made by the traffic personnel. Further, 202 arrests were made for outstanding warrants for failing to appear in court, for a variety of reasons. The outstanding warrants account for six percent of all arrests that were made by the traffic personnel.

5.1 Understanding the Employer/Employee Relationship

Any organisation today is only as good as the people that represent it. This is especially important in the case of the NZ Police who have a significant status within our society as the crime preventer, protectors of the public, educators and custodians of the delivery of compliance of our laws.

Over the last 60 years society has adopted many new technologies, procedural norms, equipment and activities that have required policing to also utilise and develop various technologies, procedures and equipment to continue to meet the Police mandates. For the policeman today to be capable of every aspect of this role is a practical impossibility.

Today a specialist in any area must be given the credibility that that specialist has risen to and as such when that skill is required during policing activities that person must be given the opportunity to contribute appropriately.

A simple example under the current Act is taken from the delivery of the largest ever temporary traffic management operations so far in New Zealand - APEC 1999. On one occasion during this event, a specialist lower ranking policeman was instructed by a higher ranking officer to enable that officer's vehicle to enter a restricted control area. The specialist officer knew that this would have at that time created serious traffic management issues, security risks and caused disruption to the local communities, thereby compromising the Police, the event, international guests and local communities.

However, under the current Act the specialist officer was required to comply. It was only the intervention of a local government senior traffic engineer which helped resolve the situation and negotiate an acceptable solution so as to avoid what would have been inevitable incidents.

This past event is an example that today, hierarchical management systems do not easily allow individuals/specialists, the opportunity of contributing appropriately, for the benefit of either the organisation (in this case the Police) or the communities it serves. It is understood that the Police is an organization which must have strong protocols and disciplines, however ways need to be found to achieve

³ The Grand Prairie, Texas, Police Department has a record-keeping system that can measure the effects of traffic enforcement on criminal activity as well as on traffic safety

a degree of flexibility to deal with a world markedly different from that which existed in the 1950's when the current Act became law.

6. Government Funding and resourcing

Trafinz understands that changes in fiscal policy can result in a funding system based on short-term "bottom line" costs. Trafinz believes that this can lead to serious undermining of long term, strategic goals and objectives in relation to investment, and that this perpetuates a "someone else pays" attitude.

This is known to fail to support vital crime prevention and often results in:

- Continual, regular changes in priority;
- Projects not integrating with partnerships;
- The perpetuation of mediocracy;
- Other investors both public and private, failing to align with the country's vision;
- Major cost being born by communities and the environment;
- Escalation of costs due to delays in implementation or forced inappropriate deadlines;
- A lack of focus on proactive crime prevention and too much focus on reactivity to crisis events.
- A lack of focus on achieving the visions for New Zealand in terms of outcomes.

From investigation and research, it would appear that in order to achieve their desired outcomes, a number of other countries have shifted their funding systems to provide for more investment in crime prevention through policing and to empower their Police to create better community outcomes.

This approach has helped eliminate the often seen situation in NZ that someone else within the community pays, for example in crash costs, environmental damage, etc.

Trafinz suggests local government would be happy to work with central government to develop an a more appropriate funding model to help the Police better achieve their goals for achieving community outcomes.

7. Safety and Public Health

Trafinz has a strong interest in the safety performance of the road network and has been active in promoting a move towards a Public Health model approach towards road safety in the manner adopted explicitly in Sweden and more implicitly in the world's best performing countries such as the Netherlands and UK.

We have a particular concern that the 2010 national safety targets should not be scaled back as a result of lack of funding, resourcing and reduced commitment to empowering NZ communities. Trafinz would strongly advocate that the new Act empowers Police to place a high priority on working to significantly reduce the current rate of crashes on our land transport system.

We would support for example greater emphasis by Police on speed management, red light running, licensing, drugs and alcohol abuse, vehicle and road environment compliance within the system as we believe there is a strong case for at least in the short to medium term, speed limits being brought down where appropriate on those parts of the network where speeds are too high for the road design or the road conditions.

Trafinz envisages an Act that clearly identifies the roles and responsibilities of Police in collaboratively working towards achieving these long-term strategic outcomes incrementally.

8. Transportation outcomes

The Institute considers that good policing involves the achievement of the already agreed transportation 2010 target and realise that currently none are likely to be achieved with only three years to go until 2010 is upon us.

Trafinz believes that the current Act is not aligned to achieving this vital outcome and the key role NZ Police play in achieving this. Road violence and criminal activities within the transport network are therefore still a major cost and disbenefit to New Zealand communities. This must be addressed within the act and must further enhance the opportunities for local government and police to further develop its collaborative work to date so that together the desired outcomes can be achieved.

9. Powers of local authorities to enforce traffic offences

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.

In Trafinz' 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 reply 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.

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.

10. Infringement fees

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.

11. Bylaws as to the Use of roads

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.

12. Review of enforcement of special vehicle lanes (moving vehicle offences)

Local government can currently enforce special vehicle lanes to the extent that the legislation enables. This review also needs to ensure that automated devices can be used flexibly for managing the transport system and across a number of infringements, such as speed, intersection and red light infringements. As part of enabling approved devices to be used for a range of functions, it is recommended that the scope of council parking wardens be increased to include these relatively low level-moving violations. Currently only the NZ Police can enforce such infringements.

Furthermore, currently only the Commissioner of Police can approve use of new technology for enforcement. A more efficient approach would be for the Police or the legislation to specify performance standards (e.g. with respect to adopting new technology, and standards of capture) which the courts will accept and which councils can effectively implement.

In the event that automated devices are permitted to, capture evidence for managing a range of infringements, then consideration will need to be given to standards the court requires for evidence to be admissible. In particular, the requirement for wardens to personally witness offences in conjunction with the evidence being captured.

Ideally, transport and police legislation should also anticipate a broad range of purposes for traffic control devices to be erected, including their potential role in managing road use at different times of the day.

13. Multi Modal Transport Facilities

We support the principle of Police working with the industry in designing transport corridors as multi-modal areas for the use of everyone, with the Police being able to constructively enforce all areas within these different modal transport alternatives

In summary Trafinz supports the strong emphasis being placed on dealing with the inadequacies of the current Police Act. The NZ Police play a key role in New Zealand society and the delivery of a uniquely integrated society that is healthy, economically prosperous and environmentally sustainable.