



Cabinet

Minute of Decision

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Proposals to Address Problems with Wheel Clamping

Portfolio **Commerce and Consumer Affairs**

On 13 August 2018, following reference from the Cabinet Economic Development Committee (DEV), Cabinet:

Background

- 1 **noted** that on 13 June 2018, DEV deferred consideration of a submission on a proposal to regulate the maximum fees that can be charged by wheel clamp operators, and invited the Minister of Commerce and Consumer Affairs to report back with further advice on the wider regulatory framework relating to parking enforcement on private land [DEV-18-MIN-0111];
- 2 **noted** that the Minister of Commerce and Consumer Affairs has looked at evidence of problems with the wider regulatory framework for private parking enforcement, and has concluded that while there is some evidence of potential issues in other areas, problems related to wheel clamping appear to cause the most harm;
- 3 **noted** that the Minister of Commerce and Consumer Affairs does not recommend initiating an in-depth review of private parking enforcement, and recommends that wheel clamping be addressed in the first instance;

Policy proposal

- 4 **agreed** that a person may not charge more than the maximum amount for a parking breach on private land that requires the removal of a wheel clamp (including the charge for the application and removal of the wheel clamp itself);
- 5 **agreed** that the maximum amount be set at \$100 (inclusive of GST);
- 6 **agreed** that a breach of the requirement in paragraph 4 above be an infringement offence with:
 - 6.1 an infringement fee of \$1,000 for an individual and \$5,000 for a body corporate;
 - 6.2 a fine of up to \$3,000 for an individual and up to \$15,000 for a body corporate (if the person is charged with the offence in court);

- 7 **agreed** that, if a wheel clamp operator has breached the maximum fee, motorists will have the right to recover payments made in excess of the maximum fee through normal civil claims processes, including the Disputes Tribunal;
- 8 **agreed** to create a power for the responsible Minister to recommend regulations to amend the amount of the maximum fee;
- 9 **agreed** that New Zealand Police be the enforcement agency for wheel clamping regulation on private land;

Legislative implications

- 10 **agreed** to give effect to the above proposals through an amendment to the Land Transport Act 1998;
- 11 **authorised** the Minister of Commerce and Consumer Affairs to make additional policy decisions, consistent with the above proposals, with those decisions to be reported to the Cabinet Legislation Committee;
- 12 **invited** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;
- 13 **agreed** that the Ministry of Transport be consulted on the drafting instructions;

General

- 14 **noted** that the Ministry of Business, Innovation and Employment will publish a copy of the paper under DEV-18-SUB-0153 on its website.

Michael Webster
Secretary of the Cabinet

Secretary's Note: This minute replaces DEV-18-MIN-0153. Cabinet amended paragraph 5 and added a new paragraph 9.

Hard-copy distribution:

Prime Minister
Deputy Prime Minister
Minister of Commerce and Consumer Affairs