

Committee(s):	Date(s):
Planning and Transportation Committee (for decision) Police Committee (for information) Policy and Resources Committee (for decision)	13 September 2016 17 November 2016 6 October 2016
Subject: City of London ATTRO – Public consultation report	Public
Report of: Director of the Built Environment	For Decision
<u>Summary</u>	
<p>The City of London Corporation (“the City Corporation”) received a formal request from the Commissioner of the City of London Police in July 2015 to introduce an Anti-Terrorism Traffic Order (ATTRO) in the City Corporation area.</p> <p>At the relevant Committees in December 2015/January 2016 Members approved the making of the ATTRO in principle subject to agreeing the draft protocol between the City Corporation, the City of London Police and Transport for London (TfL) and three other conditions, namely:</p> <ul style="list-style-type: none"> • Members to determine whether or not to proceed with the ATTRO following the statutory consultation on the ATTRO; • An annual review of the ATTRO be presented to Members; and • Confirmation that the ATTRO is to be used in a proportionate manner. <p>In April 2016 Members agreed the protocol referred to above and agreed that the ATTRO could be put forward for statutory consultation. Members further agreed that the final decision as to proceed with the ATTRO would be taken once the responses to this consultation were known. This report sets out that there were only two formal responses and that any concerns raised by these respondents have now been addressed.</p> <p>Members also resolved in April that the City Corporation could enter into an agreement under Section 101 of the Local Government Act 1972 with Transport for London to carry out the statutory steps associated with the making of an ATTRO that would include the TLRN roads that lie within the City of London. As part of the Section 101 agreement that was made, TfL required the City Corporation to indemnify it against any claims or liabilities incurred in its function as a traffic authority as a result of the City Corporation applying the ATTRO.</p> <p>The results of the public consultation are contained in this report.</p> <p>Recommendations</p> <p>It is recommended that Planning and Transportation Committee and Policy and Resources Committee :</p> <ol style="list-style-type: none"> (1) Authorise the making of the ATTRO; and (2) Authorise the Indemnity provided to Transport for London in the Section 101 Agreement. 	

Main Report

Background

1. In July 2015, the Commissioner of the City of London Police requested formally that an Anti-Terrorism Traffic Order (ATTRO) be made by the City Corporation for the roads in the City of London where the City Corporation is the Traffic Authority.
2. A report on the ATTRO proposal was approved by the Planning and Transportation Committee in December 2015 and by the Police Committee and the Policy and Resources Committee in January 2016. Members approved the making of the ATTRO in principle subject to certain conditions being met. These conditions related to :
 - Members to approve the draft Protocol between the City Corporation, the City of London Police and Transport for London (TfL);
 - Members to determine whether or not to proceed with the ATTRO following the statutory consultation on the ATTRO;
 - An annual review of the ATTRO be presented to Members; and
 - Confirmation that the ATTRO is to be used in a proportionate manner.
3. Following this decision, the City Corporation held meetings and workshops with the City of London Police and TfL that resulted in TfL agreeing to the inclusion of the roads within the City of London that form part of the Transport for London Route Network (TLRN) for which TfL is the Traffic Authority.
4. A Protocol has been drafted jointly by the City Corporation, the City of London Police and TfL that sits alongside the ATTRO and sets out the arrangements for its operation. An agreement has been signed under Section 101 of the Local Government Act 1972 with TfL to allow the City Corporation to carry out the statutory process for the proposal, notification and making of the ATTRO on the TLRN roads within the City of London.
5. A further report on the ATTRO was presented on 14 April 2016 to the Police Committee for information and for decision by the Policy and Resources Committee, and on 26 April 2016 to the Planning and Transportation Committee for decision.
6. This report addressed the concerns of Members arising from the earlier report and the Planning and Transportation Committee and Policy and Resources Committee approved the draft Protocol and resolved that the statutory process to propose the making of the ATTRO could be commenced. The resolution requires the results of the statutory consultation to be reported to the Planning and Transportation Committee and the Policy and Resources Committee for those committees to determine the next step.

7. The public consultation ran from 7 June to 30 June 2016. The consultation documents were sent to all neighbouring authorities, emergency services, transport organisations and all bodies on the consultation list for traffic orders. The notice of proposal was published in the Evening Standard and London Gazette, and notices were put on the ward noticeboards throughout the City.

Consultation Responses

8. During the public consultation two responses were received. One was received from the London Borough of Islington enquiring about the effect of the ATTRO on boundary roads. In response it was made clear that boundary roads were excluded from the proposed Order.
9. A response was received from the City of Westminster. Officers met with their counterparts at the City of Westminster to discuss their comments. Following discussions with the Cabinet Member and Director, Westminster confirmed that they were content for the proposal to proceed.
10. TfL have reviewed the results of the consultation and provided authorisation to proceed to make the Order. (see Appendix 1)

Section 101 Agreement

11. A Section 101 Agreement was entered into between the City Corporation and TfL on 6 June 2016 authorising the City Corporation to exercise TfL's traffic authority functions on its roads in the City for the purposes of consulting on and making the ATTRO. TfL required the City Corporation to provide it with an Indemnity against any claims against or liabilities incurred in its function as a traffic authority as a result of the City Corporation discharging those functions negligently. The Section 101 Agreement was authorised by the April Committee resolutions but the Indemnity was not specifically approved. It was included in the Section 101 Agreement on the basis that (i) without the Section 101 Agreement being in place the City Corporation could not proceed with the ATTRO consultation in respect of the TfL roads; (ii) the Indemnity provisions would not be engaged unless it was resolved to make the ATRO; (iii) therefore authority for the Indemnity would be sought in conjunction with any recommendation to make the ATTRO.
12. The terms of the Indemnity reflect the usual requirements where one authority delegates statutory functions to another and is in the same terms to the Indemnities required by the City Corporation from TfL where TfL has been authorised to exercise the City Corporation's functions (such as in relation to the Olympics and the Cycle Superhighways). The measures put in place to ensure the proper and proportionate use of the ATTRO are considered to mitigate risks arising in respect of the Indemnity.

Legal implications

13. The legal implications arising from the consultation and the Section 101 agreement are contained in the body of the report. The other legal implications

in respect of the ATTRO remain as previously reported and are reproduced in Appendix 2.

Outline Programme

14. The key milestones are:-
 - September/October 2016: Consultation report submitted to City Committees
 - End of October 2016: If approved by Committees, ATTRO to be made operational to the City of London Police
 - October 2017: 1st year review of the ATTRO report to be submitted to City Committees

Evaluation

15. Following consideration of the consultation responses the evaluation remains as set out in the reports of January and April 2016. The permanent ATTRO covering the whole of the City (but contingent in nature to be implemented as described in the previous reports) is recommended on the basis that due to its exceptional characteristics (i.e. its highly dense nature and the concentration of high profile historic, prestigious and financial targets throughout its area) the City Corporation's area is particularly vulnerable to terrorism. The safeguards provided for in the ATTRO, Schedule and Protocol aim to ensure it is a proportionate measure used to the minimum extent. In addition, as required by previous Committees, reports reviewing the operation of the ATTRO will be presented to relevant Committees to ensure ongoing scrutiny and oversight of its operation.

Conclusion

16. There were no objections received as a result of the consultation and the concerns that two of the neighbouring authorities expressed have been addressed.
17. It is recommended that the request of the Commissioner of the City of London Police made in July 2015 is agreed. The ATTRO is recommended on the basis that due to its exceptional characteristics the City Corporation's area is particularly vulnerable to terrorism. With the proposed safeguards for managing impacts, and with the measures aimed at ensuring restrictions are imposed to the minimum extent necessary, the ATTRO is considered an appropriate measure which will help the Commissioner of Police better protect the City community.

Appendices

Appendix 1: TfL Approval to proceed

Appendix 2: Legal implications

Background Papers

- “Anti-Terrorism Traffic Regulation Order (ATTRO)” report presented at Planning and Transportation Committee on 15th December 2015 and Police and Policy and Resources Committees on 21st January 2016.
- “Update Report – City ATTRO” presented at Planning and Transportation Committee on 26 April 2016 and Police and Policy and Resources Committees on 14th April 2016.

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Appendix 1

TfL approval to proceed

File Ref: **ATTRO City of London**


To: Leon Daniels
Managing Director – Surface Transport for London

Area: City of London

Title of advertised Order: **City-wide Anti-terrorism Traffic Order
The City of London (Protective Measures) (No.1) Order 201***

Objection Period *from* : 07 June 2016 *to* : 30 June 2016

1. The above draft Traffic Order has been subject to consultation and advertisement in line with the requirements of Regulation 6 and 7 of The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (SI 1996 No.2489).
2. **No objections** have been received. Copies of any responses are attached, together with a summary table (TRO/form.30) for your information.
3. If you are content, please give your approval to the making and bringing into effect of this Traffic Order.

Signed  Date 22/7/2016
Derek Theobald
Head of TfL Events Team

PART B

To: Derek Theobald
Head of TfL Events Team

Please proceed  into effect of the Order in line with Part III of the Regulations

Signed  Date 22/7/16
Leon Daniels
Managing Director – Surface Transport for London
Transport for London

Appendix 2

Legal implications

- 1 Statutory power to make the ATTRO – Sections 6, 22C and 22D of the Road Traffic Regulation Act 1984 (as amended by the Civil Contingencies Act 2004) enables traffic orders to be put in place by the traffic authority for the purposes of avoiding or reducing the likelihood of danger connected with terrorism, or preventing or reducing damage connected with terrorism.
- 2 Statutory duties of traffic authority - As traffic and highway authority, the City Corporation has the duty to secure the expeditious, convenient and safe movement of traffic (having regard to the effect on amenities) (S122 Road Traffic Regulation Act 1984) and the duty to secure the efficient use of the road network avoiding congestion and disruption (S16 Traffic Management Act 2004). The Schedule to the ATTRO sets out requirements aimed at meeting these duties by ensuring that any restrictions will be the minimum necessary to remove or reduce the danger and are consistent with the statutory requirements for making such Orders. In implementing the ATTRO the traffic impacts of restricting or prohibiting traffic to roads within the City, including, potentially, pedestrian traffic, should be considered. In the event of a threat, the disruption to traffic flow would also have to be weighed against the threat of more severe disruption and greater risk being caused due to failure to prevent an incident.
- 3 By way of further controls, the Schedule to the draft ATTRO requires that in most cases at least seven days' notice of any restrictions must be given to persons likely to be affected (unless this is not possible due to urgency or where the giving of notice might itself undermine the reason for activating the ATTRO), and notice must also in any event be given to the City, TfL and other affected traffic authorities. The arrangements are further explained in the Protocol.
- 4 Human Rights and Proportionality - In considering the request for the ATTRO, there is a duty to act in accordance with the European Convention on Human Rights. In relation to possible restriction of access to property, any interference with Article 1 rights to enjoyment of property must be justified. Interference may be regarded as justified where it is lawful, pursues a legitimate purpose, is not discriminatory, and is necessary. It must also strike a fair balance between the public interest and private rights affected (i.e. be proportionate). It is considered that the public interest in being protected by the existence and operation of the ATTRO can outweigh interference with private rights which is likely to occur when restrictions are in operation. The scope of restrictions must be proportionate and should only last until the likelihood of danger or damage is removed or reduced sufficiently in the judgment of a senior police officer. The Schedule to the ATTRO sets out arrangements (further expanded in the Protocol) for ensuring that any interference is proportionate. Given the risks to life and property which could arise if an incident occurred, and the opportunity provided by the ATTRO to remove or reduce the threat of and/or impacts of incidents, it is considered that the ATTRO can be justified and any resulting interference legitimate.

- 5 Leading Counsel has reviewed the proposed arrangements and has advised that, with some modifications (which have been adopted in the proposals before you), the recommendations are ones which the City may properly and reasonably agree. It should be noted that an external legal counsel has been consulted on three separate occasions regarding the use of the above legislation and the proposal for a City ATTRO.