

[In Confidence]

Office of the Minister of Transport

Cabinet Environment, Energy and Climate Committee

Reshaping Streets: Approval to undertake public consultation

Proposal

- 1 I am seeking your approval to consult on the attached draft consultation document *Reshaping Streets Regulatory Changes* (Appendix One).
- 2 This consultation document sets out a collection of proposed regulatory changes that would make it easier for local authorities to make street changes that support public transport, active travel, and placemaking. The proposed changes would support delivery of actions in Aotearoa New Zealand's first Emissions Reduction Plan (the ERP).

Relation to government priorities

- 3 The ERP includes a target to “reduce total kilometres travelled by the light vehicle fleet by 20 per cent by 2035 through improved urban form and providing better travel options, particularly in our largest cities.” To meet this, the ERP includes actions to accelerate widespread street changes to support public transport, active travel, and placemaking. The proposed package would deliver on the action to “consider regulatory changes to make it simpler and quicker to make street changes”¹ as well as supporting other actions.
- 4 This proposed package would also help us to meet other priorities, including:
 - 4.1 **reduce deaths and serious injuries from road crashes**, as set out in *Te Ara ki te Ora Road to Zero*, New Zealand's road safety strategy for 2020 – 2030
 - 4.2 **achieve Government's Urban Growth Agenda objectives** for emissions reductions as well as liveable and resilient cities
 - 4.3 **provide people with better travel options**, which is a strategic priority in the Government Policy Statement on Land Transport 2021.

Executive Summary

- 5 To meet the ERP targets and make Aotearoa New Zealand's cities more attractive and healthier places to live, work and play, we need to make it safer, quicker, and more attractive for people to walk, bike, ride devices (including mobility devices), and take public transport in urban areas. A relatively quick and cost-effective way to do this is by making changes to existing streets. For example, some road space used for storing private

¹ Action 10.1.2.D: Reshaping Streets

vehicles can be reallocated to create more dedicated bus lanes and bike lanes. These types of street changes could also improve road safety, boost mental and physical health and make cities better suited for higher density living.

- 6 This paper seeks Cabinet's agreement to undertake public consultation on a package of proposed regulatory changes. Key elements of the package include powers and requirements for local authorities to pilot street changes, filter and calm traffic, and close roads. The proposed regulatory changes complement another regulatory package called Accessible Streets, which will change how people use paths and roads.
- 7 I propose to introduce a new land transport rule (a new rule), to amend parts of other land transport rules and to amend transport provisions in the *Local Government Act 1974* (LGA 1974). These proposals would be finalised after public consultation and submissions analysis, during which period I will work with the Minister of Local Government on the LGA 1974 provisions, before reporting back to Cabinet.
- 8 I realise that local government is being consulted on many regulatory changes across portfolios this year, including some substantial reforms. This is stretching the capacities of local authorities to provide meaningful feedback during consultation. The regulatory changes that I am proposing have been welcomed by local authorities engaged so far, as they will reduce legal uncertainty and make it easier for them to make street changes.

Background

We need to make streets safe and healthy for people

- 9 Streets are public spaces. For much of the past century, transport planning and legislation has prioritised private motorised traffic flows and the storage of private vehicles through on-street car parking. This, along with low density urban expansion, has encouraged high levels of car use and dependence. New Zealand's vehicle fleet has grown by over 60 per cent since 2000, and New Zealand is among the top ten countries for vehicle ownership per capita. More car use has generated more congestion and pollution and often made our cities less attractive and healthy places to live, work, and play in.
- 10 High levels of car use have come at a cost for our climate. Transport emissions account for 39 per cent of our total domestic CO₂ emissions, two thirds of which come from light vehicles (e.g. cars). This is why our ERP recognises the importance of encouraging other modes of transport to achieve our emissions reduction targets.
- 11 We also need to make streets healthy and safe. Evidence shows that people would bike and walk more if they felt safe – but we have a long way to go to make streets safe for all people. Pedestrians and cyclists in New Zealand are over-represented in deaths and serious injury statistics. Where people do choose to cycle, safety fears sometimes lead them to illegally cycle on the

footpath instead of on the road, which creates risks for pedestrians, including disabled people.

- 12 We know that walking and cycling support positive mental and physical health, but recent decades show concerning trends. For example, close to 20 per cent of secondary school children cycled to school in 1989, but by 2015 this had dropped to closer to three per cent. For primary school children, rates dropped from 12 per cent to close to two.² On average, New Zealanders spend less than an hour walking per person, per week. A third of all transport trips in New Zealand are less than two kilometres — a distance which is easy for most people to walk, ride a transport device, or cycle. Meanwhile, New Zealand has the third highest adult obesity rate in the OECD, partly due to lack of physical activity, and obesity rates are rising.

Reallocating road space on existing streets would help to meet these challenges

- 13 To improve transport options and encourage mode shift away from private motorised vehicles, we need to make it safer, quicker, and more attractive for people to travel by foot, bike, scooter and public transport in urban areas. This will require changes to many streets.
- 14 In many built-up urban areas, it is unfeasible or too expensive to widen streets by acquiring more land. It is much more cost-effective, and usually quicker, to retrofit existing streets by reallocating road space. For example, repurposing on-street car parks to deliver bus lanes can increase the speed and reliability of bus services, while new cycle lanes would unlock demand from many people who want to get around by bike. Wider footpaths and intersection improvements would also benefit people of all ages and abilities who travel by foot, wheelchair, mobility device, or pram.

Local government is responsible for making street changes, but regulatory and funding frameworks do not support rapid changes

- 15 Local government is responsible for local road operations, maintenance, renewals, and improvements, but it operates within a regulatory and funding framework set by central government. Some of that framework is almost 50 years old, with some elements that date from the 1930s. The framework reflects the transport priorities of last century, by treating private motorised traffic flows as the over-riding priority.
- 16 Communities are seldom united when it comes to changing existing streets. Even when most people support street changes, some people can strongly resist changes that involve removing on-street car parks and/or lane space for private motorised vehicles. Where the regulatory framework does not clearly support these types of changes, this can increase the risk of legal challenge. Local authorities are understandably concerned by this, given the tens or hundreds of thousands of dollars that even successful legal defence can cost.

² Ministry of Transport. (2015). 25 years of New Zealand travel: New Zealand household travel 1989–2014. Wellington: Ministry of Transport.

- 17 Unfortunately, this concern can result in risk aversion and can deter local authorities from making street changes that would benefit the wellbeing of the people who live, work and play in the area or are attempting to travel through. When street changes do occur, local authorities generally consult on a proposal before passing it by resolution or bylaw. If significant modifications are made as a result of consultation, or if modifications are required once the changes have been made, the risk of legal action often prompts local authorities to consult further, slowing the process and adding further costs.
- 18 Regulatory change is necessary to support local government in making street changes at the pace and scale required.

I propose a series of targeted regulatory changes to better equip local authorities to make street changes

- 19 The three primary proposals of this package are:
- 19.1 providing for local authorities to pilot street changes as a form of consultation
 - 19.2 enabling local authorities to filter or restrict vehicles from using some roads or parts of roads, and to use physical barriers, signage or road markings to support this
 - 19.3 expanding, clarifying, and consolidating the powers of local authorities to close roads.
- 20 The changes also include proposals to clarify existing provisions and support the new changes. These include:
- 20.1 proposed changes to how pedestrian malls and transport shelters are installed, and
 - 20.2 a proposed clarification for how road controlling authorities (RCAs) decide to install traffic control devices (e.g. physical features and road markings).
- 21 These proposals also complement the Accessible Streets regulatory package. Accessible Streets is a collection of proposed rule changes covering a wide range of topics, including rules for how devices like e-scooters and skateboards should be used on paths and roads.
- 22 A limitation of Accessible Streets was that proposals were restricted to improving safety and accessibility in existing settings, where infrastructure for active travel is often limited, and users are often forced to share crowded or narrow spaces. Feedback during public consultation told us that the best way to improve safety and accessibility is to provide better infrastructure for active travel and public transport. Reshaping Streets seeks to fill this gap.

Street pilots can be used as a form of consultation

- 23 Pilots are short-term changes used to test different street designs, prototypes of changes in various street environments. For example, a cycle path installed for 10 months to test how it impacts the wider community and collect feedback could be considered a pilot. Many of the street changes implemented through the Waka Kotahi NZ Transport Agency (Waka Kotahi) *Streets for People* programme can also be considered pilots.
- 24 Street pilots can play a valuable role in developing community support for street changes, and in accelerating the roll out of changes. This is because pilots give people something real to respond to and to experience the benefits of street changes before forming a firm view on them. They can also enable local authorities to quickly roll out low-cost changes to streets and to rapidly adapt these based on evidence and community feedback. While some local authorities have already chosen to use pilot processes for their street changes, this is not something that the current regulation makes easy.
- 25 I propose to establish a new rule (the new rule) under the *Land Transport Act 1998* that would allow local authorities to pilot street changes as a form of consultation. This means that local authorities would need to collect community feedback during the pilot and monitor the impacts of the pilot. This feedback could then be used when considering whether to make a street change (or part of a street change) permanent.
- 26 Local authorities would not be required to carry out consultation and engagement before installing a pilot. However, local authorities could do so if they want to.
- 27 Before installing a pilot, a local authority would need to reasonably notify the public and emergency services that the pilot is taking place and ensure that the public are informed how to provide feedback. It could last up to two years, with the ability to modify and refine it during that period. Before the end of the pilot, a local authority would need to decide whether to make the changes permanent and provide clear information to the public about the process to make the changes permanent.
- 28 Local authorities would still need to be satisfied that their consultation and decision-making processes meet their statutory requirements under the *Local Government Act 2002* (LGA 2002).
- 29 To support these changes, I also propose making amendments to:
- 29.1 the *Setting of Speed Limits Rule 2022* to allow speed limits to be lowered as part of pilots, which would require supporting signage, and
- 29.2 the *Traffic Control Devices (TCD) Rule* to update notification provisions related to TCD trials, so that local authorities can include TCD trials as part of their pilots.

Abilities to filter and restrict traffic are vital to encourage shifts in the use of streets

- 30 A key tool to encourage other uses of street space and to provide transport choice is the ability to restrict or prohibit vehicle movements through some roads. This may include 'filtering' motor traffic from using certain routes. For example, in the United Kingdom features such as concrete blocks, bollards or planter boxes are often installed at one end of a street, so that only pedestrians or people riding bikes or transport devices can use that street entrance. These features are broadly referred to as modal filters. Sometimes, road markings and/or signs are also used to only allow specific users on a section of roadway. For example, in New Zealand, markings and signs are used to create bus only lanes. These are known as regulatory filters.
- 31 Local authorities are interested in using both modal and regulatory filters in their local areas to support their networks. For example, low-traffic areas are an integral part of Auckland City Centre's Masterplan and proposals being investigated in Wellington City to create a low-traffic circulation plan. However, current legislation limits local authorities' abilities to restrict vehicles for the purpose of creating filtered-traffic areas either by installing bollards or using bylaws.
- 32 I propose to use the new rule to enable local authorities to limit through-movements of vehicles and filter traffic, including by using modal filters, either as pilots or on a permanent basis. I also propose to enable them to install any object (provided it is safe) to filter traffic. This would enable local authorities to use objects such as planter boxes to restrict vehicles from entering or exiting part of a road.
- 33 An example of what local authorities will be able to create with these powers are "School Streets"; restrictions on motorised traffic outside schools that apply during school drop-off and pick-up times, sometimes permitting only the vehicles of residents. School Streets are used in other jurisdictions, including the United Kingdom and Canada, to make walking and cycling to school more appealing, improve air quality around schools, and to reduce the chance of crashes between students and motor vehicles.
- 34 I also propose to amend the LGA 1974 to remove the condition that road facilities can "not unduly impede vehicular traffic entering or using the road" to provide further legal certainty when using modal filters.
- 35 This is an important proposal as, under current settings, legislation largely implies that motor vehicles should have access to all roads. This proposal addresses this presumption and allows for other users to be prioritised when appropriate. I note that consulting on this proposal could result in negative feedback from some motorists and organisations who expect to have unimpeded access.

New grounds for road closures could help encourage more varied use of our streets

- 36 Local authorities can temporarily close roads for events under either the LGA 1974 or *Transport (Vehicular Traffic Road Closure) Regulations 1965* (the

1965 Regulations). However, these provide for only a limited list of reasons and impose restrictions such as the period that the road can be closed, or requirements that the closure does not impede traffic unreasonably.

- 37 In the interim, I propose to use the new rule to enable local authorities to authorise road closures for the purpose of play streets. These are short-term events, approved by local authorities and led by residents, which close the road for a brief period to allow children and parents to play and hold activities on a roadway.
- 38 In the longer term, I propose to consolidate these road closure powers with those in the LGA 1974 and the 1965 Regulations and transfer these sections to the new rule. I also propose to provide more permissive grounds for closure, relax notification requirements and remove limitations on impeding traffic, as well as the limits on the duration of temporary closures.

I propose changes to how pedestrian malls and transport shelters are installed

- 39 Current legislation that governs the creation of pedestrian malls includes mechanisms that are inconsistent with those of other types of street changes. This can make it unnecessarily difficult and costly to establish pedestrian malls. I propose to remove the requirement for local authorities to use the special consultative procedure, and to remove the right of appeal to the Environment Court. This would not remove the requirement to apply the consultation principles established in the LGA 2002, or the ability for the public to seek a judicial review of a decision to establish a pedestrian mall.
- 40 The LGA 1974 also sets specific consultation requirements for erecting transport shelters (including bus shelters). These requirements are administratively burdensome and inconsistent with the process used for other public facilities, such as pedestrian crossings, seats, or public toilets. Local authorities currently need to use one set of legislation to create a bus stop, and then the LGA 1974 provisions to erect a shelter at that bus stop. Removing the special consultation requirements for transport shelters in the LGA 1974 would make the process of installing bus shelters more efficient.

I also propose to include an express power for the installation of TCDs

- 41 Local authorities have expressed concern at a lack of express powers in legislation to install TCDs, which are devices such as traffic signs, pedestrian crossings, and paint markings. Some rely on the LGA 1974, which can prove an administrative burden. I propose therefore to provide an express power in the draft rule to allow local authorities to choose to install traffic control devices through the rule if they wish. Local authorities would still be bound by the requirements of the LGA 2002 when making such decisions. This would not limit the abilities of RCAs to install TCDs or make other changes to the roadway using other legislation.

While these regulatory changes would support local authorities to make street changes, the funding system will help to drive changes

- 42 Budget 2022 included \$350 million from the Climate Emergency Response Fund (CERF) to go towards activities, services and infrastructure that reduces reliance on cars and supports the uptake of active and shared travel modes. This funding covers the rapid roll-out of urban cycling networks and supports safer, greener, and healthier school travel. The proposed regulatory changes will support local authorities to use this funding effectively and efficiently.
- 43 I have also asked officials to consider how to use the next Government Policy Statement on Land Transport to incentivise the reallocation of street space.

Consultation

- 44 The Department of Internal Affairs, Te Puni Kōkiri, Oranga Tamariki, New Zealand Police, Te Arawhiti, and the Ministries of/for Housing and Urban Development, Social Development, Women, Pacific Peoples, Environment and Health provided feedback on this paper.
- 45 The Department of the Prime Minister and Cabinet, Treasury, Ministry of Justice, Ministry of Education and Kainga Ora Homes and Communities were also asked for comment.

Local government representatives have helped to shape these proposals

- 46 These proposals were developed by Te Manatū Waka Ministry of Transport (MoT) and Waka Kotahi, with assistance from a technical advisory group of local government officials across New Zealand. They also drew on workshops with representatives from most city and district councils during the scoping phases. Through this initial engagement, local authorities have expressed strong support for regulatory changes, particularly the proposal to create a new legislative tool for piloting street changes.

I propose to undertake public consultation for six weeks in August / September 2022

- 47 I am aware that consulting from August to mid-September would slightly overlap with the period before the local government elections on 8 October 2022. I consider that consultation is warranted in this period because this package is a high priority. These regulatory changes are needed as soon as possible to support effective delivery of the \$350 million CERF funding in Budget 2022, and to deliver on the ERP. I am also aware that Wellington City Council (WCC) has recently needed to pause the rapid roll out of its cycle network due to legal issues. The proposed regulatory changes would better equip councils including WCC to use pilots as a form of consultation.
- 48 Although the regulatory proposals are generally enabling (i.e. they do not require local authorities to make specific street changes), I am aware that reallocating road space towards public and active transport can be contentious. Some of the Reshaping Streets regulatory proposals may

therefore spark strong reactions from some members of the public. On the other hand, local authorities and many community groups are likely to be supportive. People will have an opportunity to air their views during consultation.

Implementation

- 49 To enable local authorities to reap the benefits of these changes as quickly as possible, and subject to Cabinet's approval to consult and later finalise the policy, I propose to implement these policies in several phases.
- 50 Firstly, I propose to introduce the new rule to give local authorities more powers to pilot potential street changes, filter traffic, and close roads for specific purposes. This would allow local authorities to begin using the rule to make street changes as soon as possible.
- 51 I then propose amending the LGA 1974, repealing the 1965 Regulations, and updating the new rule to consolidate powers and remove barriers in the primary legislation that could limit the effectiveness of the rule. This would make the legislative system more coherent and accessible.
- 52 Any changes to transport provisions in the LGA 1974 would require the agreement of the Minister of Local Government, who administers the LGA 1974. I will work with the Minister of Local Government to finalise any proposed changes to the LGA 1974 before seeking Cabinet agreement to proceed with any changes.

Financial Implications

- 53 There are no direct financial implications of this proposal.

Legislative Implications

- 54 As mentioned above, legislation would be required to implement the proposals, including changes to both primary and secondary legislation.

s 9(2)(f)(iv)

- 55 The proposed Regulatory Systems (Transport) Amendment (RSTA) process has also consulted on a series of changes to the affected provisions of the LGA 1974, including shifting them into transport legislation. If both sets of proposals proceed, they would be combined into a single bill.

Impact Analysis

Regulatory Impact Statement

- 56 Cabinet's impact analysis requirements apply to this paper (Appendix Two). An interim Regulatory Impact Statement (RIS) is attached to this Cabinet

paper. A panel with representatives from MoT and Waka Kotahi reviewed the regulatory impact assessment and considered that the information and analysis summarised in it meets the quality assurance criteria. The statement will be finalised after consultation and resubmitted when seeking final policy approval.

Climate Implications of Policy Assessment

- 57 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as any potential impact would be indirect. However, it is expected that the proposed changes would support the actions in the emissions reduction plan and enable local authorities to make design changes that better support active transport modes.

Population Implications

- 58 As this proposed package focusses on ensuring that the legislative framework is enabling of change, there will be no direct impact on population groups.
- 59 However, the changes that I hope to see occur as a result of this enabling framework are likely to impact on the following population groups:
- 59.1 **Children** are likely to benefit from street events such as school streets and play streets, which will allow them to walk and cycle to school more safely.
- 59.2 **Women** are statistically less likely to drive, and more likely to make multiple short trips locally. They are also less likely to cycle and take public transport due to safety concerns, especially with children. Women and all caregivers could benefit from street changes that provide alternative, particularly safer, transport options for short trips and transporting dependent people.
- 59.3 **Māori and Pacific peoples** are disproportionately represented amongst low-income households and are therefore likely to be spending higher proportions of their income on travel. They may benefit from changes that provide alternative, cheaper transport options.
- 59.4 **Seniors and disabled people** stand to benefit from changes such as widened footpaths, slowed traffic and provision of cycleways, which will help to remove cyclists and scooters from the footpath. They will also benefit from changes that improve public transport services.³

³ A reduction in on-street car parking spaces would not necessarily lead to fewer car parks for mobility parking permit holders. It will be important for local authorities to consider how street changes impact on access for all users, including those who do not currently use the space due to access issues. Waka Kotahi's National Parking Management Guidance emphasises the need to prioritise adequate provision of mobility parking. This is also reflected in car parking strategies and policies of local authorities.

- 60 People and organisations representing these groups have not yet been engaged with, so their feedback will be sought during public consultation.

Te Tiriti o Waitangi

- 61 These proposals are intended to be enabling and do not affect the obligations of local authorities to comply with Te Tiriti o Waitangi or the importance of partnering with iwi and other affected communities when making street changes. This will be a key consideration when developing guidance to help local authorities implement these proposals.

Human Rights

- 62 No inconsistencies with the *New Zealand Bill of Rights Act 1990* or the *Human Rights Act 1993* have been identified.

Communications

- 63 I propose to announce this policy and the opening of consultation by press release. MoT and Waka Kotahi are developing a communications plan which will include targeted communications for key stakeholders and interest groups.

Proactive Release

- 64 I intend to release this Cabinet paper proactively, subject to any necessary redactions, in line with the requirements of Cabinet Office circular [CO (18) 4].

Recommendations

The Minister of Transport recommends that the Committee:

Purpose and policy proposals

- 1 **note** that the ERP includes an action to consider regulatory changes to make it simpler and quicker to make street changes and generally to support people to walk, cycle and use public transport;
- 2 **note** that I am proposing a package of regulatory changes to support the actions in the ERP, which would include the following policy changes:
 - 2.1 provide for local authorities to pilot street changes as a form of consultation;
 - 2.2 enable local authorities to use physical barriers and signage to restrict access to, or through, areas for certain classes of traffic;
 - 2.3 expand, clarify and consolidate the powers of local authorities to temporarily close roads;

- 2.4 remove the requirement to use the special consultative procedure and the ability to appeal to the Environment Court when creating pedestrian malls;
 - 2.5 remove the specific notification requirements for installing transport shelters in the LGA 1974;
 - 2.6 clarify that local authorities can choose which legislation to apply when installing, operating or removing a traffic control device;
- 3 **note** that these proposals would be given effect by a new land transport rule, followed by amendments to the LGA 1974;

Consultation

- 4 **agree** to public consultation on the attached draft discussion document entitled: *Reshaping Streets Regulatory Changes – Consultation document*;
- 5 **note** that public consultation on the attached consultation document will run for a six-week period;
- 6 **authorise** the Minister of Transport to approve any technical amendments to the attached consultation document, and other changes consistent with the policy proposals outlined in this paper, before consultation starts;

Next steps

- 7 **note** that the Minister of Transport will work with the Minister of Local Government to finalise the proposed changes to the LGA 1974 after consultation and before returning to Cabinet;
- 8 s 9(2)(f)(iv) [REDACTED]
- 9 **note** that MoT will publish a copy of this Cabinet paper, the Cabinet Committee minute, the discussion document *Reshaping Streets Regulatory Changes – Consultation document* and Regulatory Impact Statement on its website, subject to appropriate redactions consistent with the *Official Information Act 1982*.

Authorised for lodgement

Hon Michael Wood
Minister of Transport

Appendix One: Draft consultation document - Reshaping Streets Regulatory Changes

For the final version of this document, please see the consultation page on Waka Kotahi New Zealand Transport Agency's website: <https://www.nzta.govt.nz/about-us/consultations/reshaping-streets-consultation/>

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Appendix Two: Regulatory Impact Statement

For the final version of this document, please see the consultation page on Waka Kotahi New Zealand Transport Agency's website: <https://www.nzta.govt.nz/about-us/consultations/reshaping-streets-consultation/>

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