



20 May 2022

OC220088

Hon Michael Wood

Action required by:

Minister of Transport

Monday 30 May 2022

RESHAPING STREETS REGULATORY CHANGES – PROPOSED REGULATORY PACKAGE

PURPOSE

Updates you on the Reshaping Streets regulatory package (the proposed package) and seeks your agreement on proposals to include in a new Land Transport Rule (a new rule). It also updates you on timelines to progress these changes.

KEY POINTS

- The proposed package aims to improve the ability of local authorities to make street changes that support public transport, active travel and placemaking. It includes a new rule and changes to primary legislation.
- We recommend including changes to the *Local Government Act 1974* (LGA1974) in the proposed package. As this Act is administered by the Department of Internal Affairs (DIA), any changes to the LGA1974 would require DIA's support and the Minister of Local Government's agreement. Our agencies will seek agreement from you and the Minister of Local Government to include changes to the LGA1974 in the proposed package through a separate joint briefing.
- We propose some regulatory changes that we have not previously discussed with you. These include enabling local authorities to set temporary speed limits as part of pilots, amending the requirements for establishing pedestrian malls and transport shelters, and streamlining the process for local authorities to trial traffic control devices (TCDs) in their local areas.
- To enable local authorities to reap the benefits of these changes as quickly as possible, we recommend implementing the proposed package in three parts:
 - **Part one:** introduce a new rule to give local authorities greater powers to pilot potential street changes, filter traffic (by installing modal filters), and close roads for specific purposes. This rule would address most of the key regulatory issues, and could be approved by the end of s 9(2)(f)(iv)
 - **Part two:** shift transport content in the LGA1974 to transport legislation and amend or repeal some sections. These amendments could:

- provide local authorities with a stronger legal foundation to make changes through the new rule
- alter the consultation requirements for declaring pedestrian malls, and
- simplify the process for installing transport shelters.

Depending on Cabinet agreement and Parliament processes, these changes could be enacted in s 9(2)(f)(iv)

- **Part three:** amend the new rule (that was introduced in part one) to add some powers shifted from the LGA1974, as they would fit better in the new rule. The *Transport (Vehicular Traffic Road Closure) Regulations 1965* would also be revoked, with equivalent provisions added to the new rule.
- We recommend undertaking public consultation on the proposed package in July – August 2022. This will provide the public with an opportunity to provide feedback on the proposals and enable us to make refinements based on this feedback. Effective consultation could support a quicker Select Committee process for progressing proposed changes to the LGA1974.
- We recommend taking a Cabinet paper on Reshaping Streets for consideration by the Cabinet Economic Development Committee (DEV) on 29 June 2022. This will advise Cabinet on the proposed package and seek approval for public consultation. We suggest making this a joint DEV paper between you and the Minister of Local Government, as the content of the proposed packaged spans both portfolios.

RECOMMENDATIONS

We recommend that you:

- 1 **agree** to include a new rule in the proposed package that will enable local authorities to:
 - use a new legislative tool to pilot street changes for up to two years Yes / No
 - use pilots as a method to meet consultation requirements Yes / No
 - install modal filters and other features to filter traffic (to create filtered traffic areas) Yes / No
 - close or partially close roads for School Streets, Play Streets, and pilots Yes / No
 - choose what decision-making mechanism or process to use when deciding whether to install, operate, pilot, or remove street changes, including TCDs. Yes / No
- 2 **agree** to include the following in the proposed package:
 - amend the *Land Transport Rule: Setting of Speed Limits 2022* to enable temporary speed limits to be set as part of pilots Yes / No
 - amend the *Land Transport Traffic Control Devices Rule 2004* to streamline the process for carrying out traffic control device trials Yes / No

- revoke the *Transport (Vehicular Traffic Road Closure) Regulations 1965* and shift equivalent powers to close roads for events to the new rule. Yes / No
- 3 **note** that the Ministry of Transport and Department of Internal Affairs will provide you and the Minister of Local Government with a joint briefing seeking approval to include changes to the LGA1974 in the proposed package.
- 4 **agree** to meet with officials to discuss this briefing. Yes / No



Angela Parker
Manager, Placemaking and Urban Development
 20 / 05 / 2022

Hon Michael Wood
Minister of Transport
 / /

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

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RESHAPING STREETS – UPDATE ON PROPOSED REGULATORY CHANGES

We have developed the Reshaping Streets regulatory package (the proposed package)

- 1 In October 2021, we outlined our approach to proposed regulatory changes for Reshaping Streets (OC210767 refers). The purpose of these changes is to make it simpler and quicker for local authorities to make street changes that support public transport, active travel, and placemaking.¹
- 2 We advised you that these regulatory changes would likely require changes to primary legislation and the development of a new Land Transport Rule (a new rule).
- 3 You indicated that you want to progress as much as possible through a new rule ahead of any primary legislation changes.
- 4 We have worked closely with Waka Kotahi NZ Transport Agency (Waka Kotahi) to develop the proposed package. We also established a local authority advisory group (the advisory group) to ensure that any changes are fit for purpose.
- 5 The proposed package provides local authorities with new powers, removes some regulatory obstacles, and makes existing legislation more accessible. It does not direct or require local authorities to make any specific street changes.
- 6 Additional interventions will be needed to encourage or require local authorities to accelerate street changes. As you are aware, the Emissions Reduction Plan (ERP) includes an action to incentivise local government to quickly deliver bike/scooter networks, dedicated bus lanes, and walking improvements by reallocating street space. The proposed package will support local authorities to effectively and efficiently use funding that incentivises street changes.
- 7 To enable local authorities to reap the benefits of these changes as quickly as possible, we recommend implementing the proposed package in three parts:
 - 7.1 **Part one:** introduce a new rule to give local authorities more powers to pilot potential street changes, filter traffic, and close roads for specific purposes. This will address most of the key regulatory issues.
 - 7.2 **Part two:** shift and amend transport content in the Local Government Act 1974 (LGA1974) to transport legislation² to provide local authorities with a stronger legal foundation to make changes through the new rule, and to make other related changes.

¹ The terms 'streets' and 'roads' are often used inter-changeably in this document, as this is common in everyday discourse. In the *Land Transport Act 1998*, the definition of 'road' includes 'a street'. Historically, major movement corridors were often called roads (e.g. between different parts of a city, or between different towns), while streets were places that provided for movement, access, and a variety of other civic purposes and activities.

² We are working with DIA to confirm appropriate transport legislation to shift the LGA1974 provisions into. This may be the *Government Roadway Powers Act 1989* or the *Land Transport Act 1998*.

- 7.3 **Part three:** amend the new rule (that was introduced in part one) to add some powers repealed from the LGA1974 in part two. The *Transport (Vehicular Traffic Road Closure) Regulations 1965* (the 1965 Regulations) would also be revoked, with equivalent provisions added to the new rule. This would make the legislative system more coherent and accessible, so that local authorities do not need to use multiple pieces of legislation to make similar kinds of street changes.
- 8 Parts two and three would be closely co-ordinated, so that local authorities would not lose any necessary powers when provisions in the LGA1974 and the 1965 Regulations are shifted to an updated new rule. All the LGA1974 changes would only need to be made through a single amendment Bill.
- 9 Annex 1 provides an overview of the full proposed package.

Part one of the proposed package involves implementing the new rule

- 10 The new rule would empower local authorities to make specific street changes without needing to make a bylaw or rely on provisions in primary legislation.
- 11 This rule would resolve three key regulatory issues that local authorities face when making street changes. These are: piloting street changes, filtering traffic, and closing roads. The new rule would also enable more efficient decision-making.
- 12 The following sections explain the rationale for making changes in each of these areas, and the proposed response.

Key Issue 1: Piloting street changes

Rationale for making changes

- 13 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 experience the benefits of street changes before forming a firm view on them. Examples of pilots include installations such as makeshift cycleways or features installed on roads to widen footpaths.
- 14 Street pilots 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.
- 15 The current regulatory framework makes it difficult to pilot street changes. For example, the common approach of approving street changes through traffic resolutions (enabled by a bylaw) undermines the purpose of piloting changes and seeking community feedback, as they require initial public consultation and decisions before embarking on a trial. Local authorities then need to seek another traffic resolution if they wish to modify the plans. This limits their ability to be responsive to public feedback and to adapt designs. In addition, there is no clear path for making piloted changes permanent if they prove successful.
- 16 Waka Kotahi has collected case studies from local authorities that have struggled to pilot street changes due to uncertainties about the legal basis for undertaking these

pilots. A lack of legal clarity has pushed some local authorities to take a more risk-averse approach or deterred them from making changes because of concerns about potential legal risks. It has also led some local authorities to consult multiple times on pilots (e.g. via a master plan, before the pilot is installed, and after a pilot is installed), which significantly adds to the time and costs for implementing pilots.

- 17 In addition, local authorities cannot currently set temporary speed limits as parts of trials. The advisory group highlighted this as a significant barrier, as it inhibits their ability to pilot street changes that are intended to slow vehicle speeds.
- 18 A clear regulatory framework to pilot street changes would support delivery of the action in the ERP to “scale up Waka Kotahi’s *Streets for People* programme to rapidly trial street changes.”
- 19 We considered international approaches for piloting street changes. As you are aware, a regulatory tool called Experimental Traffic Orders (ETO) exists in the United Kingdom to empower local authorities to trial street changes. The aim of installing an ETO is to eventually make changes permanent. The trial is used to monitor whether the experiment appropriately responds to a particular problem, to gather feedback from the community, and to find out whether further changes are needed to better suit the needs of the community.
- 20 In the ETO model, local authorities are not required to consult on experimental street trials before they are introduced. Instead, the experiment is itself the consultation. For the first six months of the ETO, local authorities must consider objections and suggested improvements, and can make changes. Within 18 months they must decide whether the order becomes permanent.³
- 21 As discussed with you previously (OC210767 refers), there is strong support among local authorities to establish a similar tool in New Zealand. The advisory group recommended naming these trials ‘pilots’ instead of ‘experiments’. They also supported a longer time limit for running pilots (two years instead of 18 months) to give local authorities sufficient opportunity to monitor the effectiveness of pilots.
- 22 Local authorities and the Police also need to be able to effectively enforce pilots. Street changes can sometimes evoke strong reactions from members of the community to the point where some people occasionally interfere with, or vandalise, devices/markings used for trials.⁴
- 23 Some people may also wilfully disobey vehicle restrictions during pilots, for example by parking or driving on temporary bike lanes or bus lanes. Interference and vandalism can create significant safety hazards for road users. They can also make it more difficult for local authorities to deliver future projects, due to the costs involved in making repairs and heightened safety risks.

Proposed regulatory changes

- 24 We propose empowering local authorities to pilot street changes through the new rule. This rule would include the following powers and requirements.

³ Examples of how ETOs are used in the United Kingdom are outlined in Walker, Holly (2020), [The Shared Path](#), a research paper for the Helen Clark Foundation.

⁴ For example, this occurred during the trial of a low-traffic neighbourhood in Onehunga in 2020, and in Gore during a ‘Streets Alive’ trial.

- 24.1 Clarify that a local authority can install pilots using any decision-making mechanism that they choose, provided they follow the requirements in the rule.⁵
- 24.2 Before installing a pilot, a local authority would need to reasonably notify the public, relevant partners, and emergency services that the pilot is taking place. The notification period would be a minimum of one week before the pilot is installed. They would also need to outline key information about the pilot (e.g. where it is located, how long it will last, and how people can provide feedback on the pilot) in this notification.
- 24.3 Piloting a street change would fulfil a local authority's requirement to publicly consult and engage with their community. Local authorities would need to collect public feedback during the pilot and consider this feedback before deciding whether to make a street change permanent. This means that local authorities would not be required to publicly consult prior to installing a pilot, or after a pilot has ended, to justify making an installation permanent. However, local authorities could choose to undertake further consultation if they want to do so.
- 24.4 The pilot could be installed for a maximum of two years. By the end of the pilot, a local authority would need to decide whether to make the piloted changes permanent.
- 24.5 Local authorities could continue to modify the pilot during the installation to directly respond to people's feedback on the pilot. They could also decide to end a pilot before the time limit is reached if the pilot has proved unsuccessful.
- 25 We also propose the following:
- 25.1 Amend the *Land Transport Rule: Setting of Speed Limits 2022* to enable local authorities to set temporary speed limits as part of pilots.
- 25.2 Amend the *Traffic Control Devices Rule 2004* (the TCD Rule) to clarify that local authorities can install traffic control device trials as part of a pilot.
- 26 To align the TCD Rule with pilots, we propose the following changes to section 3.4 of the TCD Rule:
- 26.1 Enable local authorities to choose how they notify the public about a traffic control device trial (currently local authorities must inform the public via two newspaper advertisements)
- 26.2 Allow local authorities to give a minimum of one-week notice before a trial begins (currently two weeks notice is required).
- 27 We considered whether a new offence, and associated penalties, should be created for interfering with or damaging traffic control devices (TCDs) used in pilots. We are satisfied that local authorities and the Police can use existing legislative mechanisms to prosecute or fine people for these offences.⁶ The practicalities of enforcing these offences are likely to be a larger issue than any legislative barriers. It is often difficult

⁵ Decision-making would also need to be consistent with the LGA2002.

⁶ Relevant offences and fees are in clause 13.7 of the [Land Transport Rule: Traffic Control Devices 2004](#) and [section 11A of the Summary Offences Act 1981](#).

to catch people damaging public property, as Police officers do not constantly monitor every street. In some situations, it may be possible to use cameras for enforcement purposes, but this is not appropriate in every area.

- 28 Some people may also wilfully disobey vehicle restrictions during pilots, for example by parking or driving on trialled bike lanes or bus lanes. We propose addressing this by establishing that local authorities can enforce compliance with traffic controls used in pilots.

Key Issue 2: Filtering traffic

Rationale for making changes

- 29 Local authorities should be able to restrict, or filter, traffic movements through some roads. For example, some communities and local authorities want to be able to restrict through-traffic on designated roads to create safer and quieter residential areas, known as low traffic neighbourhoods which encourage travel by walking and cycling.⁷ Low traffic areas are an integral part of Auckland City Centre's Masterplan⁸ and proposals that Wellington City Council is investigating to create a low traffic circulation plan.
- 30 Current legislation does not support local authorities to use objects such as bollards, planter boxes, or large wooden boxes to filter which vehicles can access parts of a road.
- 31 Rules do not currently define or provide for modal filters⁹, which many local authorities see as a barrier to restricting or filtering traffic. Several local authorities have advised us that if legislation enables the installation of modal filters, they would be sufficiently empowered to make these types of changes.
- 32 Under the LGA1974, local authorities can construct any facilities on the road "for the safety, health, or convenience of the public, or for the control of traffic or the enforcement of traffic laws" but only if these facilities will not, in the opinion of the Council, "unduly impede vehicular traffic entering or using the road."¹⁰
- 33 Local authorities can make their own bylaw under the *Land Transport Act 1998* (LTA1998) to prohibit or restrict vehicles from using roads. However, they are only permitted to restrict a vehicle through a bylaw if "by reason of its size or nature or the nature of the goods carried, [it] is unsuitable for use on any road or roads."¹¹ This effectively excludes local authorities from restricting vehicles for the purpose of creating filtered traffic areas.

⁷ Walker, Holly (2020), [The Shared Path](#), a research paper for the Helen Clark Foundation.

⁸ [Auckland City Centre Masterplan](#)

⁹ Modal filters are physical objects that are used to restrict certain users or classes of vehicles from accessing or passing through a section of road. For example, wooden boxes may be placed at one end of a street to restrict access to motor vehicles to encourage motor vehicles to take an alternative route.

¹⁰ [LGA1974, section 334\(1\)\(d\)](#)

¹¹ LTA1998, section 22AB(1)(c)

- 34 Some local authorities have used provisions in the LGA1974 to create pedestrian malls as a workaround to close sections of road to motorised traffic¹², in ways that are outside of its intended scope (e.g. declaring small stretches of a road a pedestrian mall merely to filter traffic on that stretch).

Proposed regulatory changes

- 35 We propose including the following powers and requirements in the new rule:
- 35.1 Enable local authorities, through the new rule, to limit through-movements of vehicles and filter traffic via the use of modal filters, or by identifying a class of vehicles that is not permitted to travel through that space.
 - 35.2 Enable local authorities to install any object, provided it is safe, for the purposes of filtering traffic. This would enable local authorities to use bollards and other objects, such as planter boxes, to restrict vehicles from entering or exiting part of road.
 - 35.3 In areas where local authorities have installed modal filters or other features to limit or filter motor traffic, that area would become known as a filtered traffic area.
- 36 We also propose related changes to the LGA1974, which are covered in part two below.

Key Issue 3: Closing roads

Rationale for making changes

- 37 Under the LGA1974, local authorities can temporarily close roads in specific circumstances including for maintenance, diversions, and for events. For events, roads can only be closed for “a period or periods not exceeding in the aggregate 31 days in any year” and “no road may be closed for any purpose specified... if that closure would, in the opinion of the local authority, be likely to impede traffic unreasonably.”
- 38 Local authorities can also use the 1965 Regulations to close roads for events, in this case for a period or series of periods of not more than 12 hours each in any consecutive 24 hours. These regulations overlap with the provisions in the Schedule 10 of the LGA1974 to close roads for races, sporting events, or other special events. The 1965 Regulations also include powers to close roads for processions, carnivals, and celebrations.
- 39 Local authorities are seeking to be able to close roads for a broader range of circumstances than current legislation allows. These include:

¹² [LGA1974, section 336](#)

- 39.1 The ability to close streets on a regular basis for short periods of time – for example, to close streets for weekly markets or regular Open Streets¹³ events that would exceed the current limit of 31 closures per year.
- 39.2 Clear powers to close streets for community events that require traffic restrictions – for example, to deliver Play Streets (i.e. short, resident-led road closures at designated days/times).
- 40 Local authorities are also interested in creating School Streets to improve safety and encourage healthy active travel. A School Street is a road outside a school with a temporary restriction on motorised traffic at school drop-off and pick-up times. The restriction applies to school traffic and through traffic.
- 41 School Streets are used in other jurisdictions, including the United Kingdom and Canada, to improve safety, manage congestion, and improve public health through more active travel.

Proposed regulatory changes

- 42 We propose including the following powers and requirements in the new rule:
 - 42.1 Enable local authorities to authorise road closures, or partial road closures, for the purposes of School Streets, Play Streets, and piloting street changes.
 - 42.2 Local authorities would need to reasonably notify the public of any road closure.
 - 42.3 Local authorities would need approval from any relevant schools to create School Streets and would need to follow guidelines provided by Waka Kotahi to establish these.
 - 42.4 Local authorities and residents would need to follow guidelines provided by Waka Kotahi to establish Play Streets.
- 43 We also propose changes to the LGA1974 to remove the 31-day limit on events, which are covered in phase two below.

Additional proposal: Supporting decision-making

Rationale for making changes

- 44 Local authorities generally use the same decision-making process for making street changes, regardless of scale. For example, the process to change a single on-street car park often requires resolution by council or committee, as does the process to change an entire road corridor. The time required to make changes is often lengthened by slow decision-making, especially if councillors and committees meet infrequently to make decisions.

¹³ Open Streets initiatives temporarily close streets to automobile traffic (e.g. for a few hours), so that people can use these public spaces for a wide range of activities including walking, cycling, exercising, playing and participating in community activities. Open Streets events have occasionally been held in Aotearoa New Zealand and are regularly held in some cities internationally.

- 45 Councils could make quicker decisions if more decision-making powers were delegated to officials or committees within local authorities. However, councillors are often reluctant to delegate their decision-making powers as street changes can sometimes be contentious, and councillors usually prefer to retain control over their decision-making powers.
- 46 The advisory group suggested setting decision-making requirements for specified kinds of street changes, to encourage or require local authorities to make decisions more quickly at appropriate levels.
- 47 This would require substantive changes beyond transport legislation, as the *Local Government Act 2002* (LGA2002) establishes that every decision made by a local authority must be made in accordance with provisions in that legislation. We do not recommend making changes to the LGA2002, as this would require major legislative reforms and we do not administer this legislation.¹⁴
- 48 Our view is that it would be more appropriate to provide guidance to local authorities on what they should consider when making decisions about street changes, including appropriate levels for decision-making.
- 49 The advisory group also highlighted an opportunity to improve the efficiency of the decision-making process. Some local authorities, including Auckland Transport, rely on section 334 of the LGA1974 to decide to install TCDs. While this is not a major burden, the advisory group advised it would be more efficient if they could decide to install TCDs without needing to apply this section of the legislation.

Proposed regulatory change

- 50 We propose including the following powers in the new rule:
- 50.1 Local authorities could choose what decision-making mechanism or process to use when deciding whether to install, operate or remove a traffic control device. Councils would still be bound by the general requirements and obligations in the LGA2002.
- 51 Waka Kotahi would also provide local authorities with guidance to assist them in deciding what type of decision-making process best suits the type of street changes they would like to make.

Additional proposal: Provide the Director of Land Transport with powers to investigate compliance with the new rule

Rationale for making changes

- 52 Several land transport rules (including the Setting of Speed Limits Rule, the TCD Rule, and the proposed Paths and Berms Rule) include powers that permit the Director of Land Transport to investigate compliance with the rule. If non-compliance is confirmed, the Director can direct a local authority to either review, modify or remove a street change to resolve the issue, at the cost of the local authority.

¹⁴ The LGA1974 and the LGA2002 are both administered by the Department of Internal Affairs (DIA). While DIA is supportive of shifting transport content from the LGA1974 into transport legislation, any potential changes to the LGA2002 would have wider implications beyond the transport system.

- 53 Including powers in the new rule to ensure compliance would provide consistency across land transport rules. Including these provisions would be a relatively minor addition to the new rule as the draft wording can largely replicate existing rules.

Proposed regulatory changes

- 54 We propose adding the following to the new rule:

- 54.1 Clarify that the Director of Land Transport may investigate compliance with the rule.
- 54.2 Clarify that if the Director considers that a local authority has not complied with the rule, the Director may direct the local authority to review, change, or modify a non-complying street change that has been installed under the rule.

Part two of the proposed package would involve changes to the LGA1974

- 55 We recommend changes to the LGA1974 to provide local authorities with a stronger legal foundation to make changes through the new rule, alter the consultation requirements for declaring pedestrian malls, and simplify the process for installing transport shelters.
- 56 The LGA1974 is administered by DIA. Any changes to the LGA1974 would require DIA's support and the Minister of Local Government's agreement. We are currently working with DIA to confirm the changes to the LGA1974 that we propose below. We will provide you with a joint briefing seeking approval to include these changes in the proposed packaged.

We propose amending section 334 of the LGA1974 so that local authorities are confident they can filter traffic

- 57 As noted above, the new rule would empower local authorities to use devices to filter traffic. However, under section 334(1)(d) of the LGA1974, local authorities may only install "facilities" on roads if these will "*in the opinion of the council... not unduly impede vehicular traffic* entering or using the road (not being a road or part of a road that has been declared a pedestrian mall" (emphasis added).
- 58 While local authorities will be able to establish an opinion on whether traffic filters "unduly" impede vehicular traffic, some local authorities may be wary of using devices to filter vehicular traffic while section 334(1)(d) of the LGA1974 exists. Risk-averse local authorities may be concerned about being legally challenged on the basis for their opinion, and this could deter them from taking advantage of the new rule.
- 59 We therefore propose making the following changes to the LGA1974:
- 59.1 Amend section 334(1) to ensure local authorities have a strong legal foundation to filter traffic, by removing the condition that road facilities can "not unduly impede vehicular traffic entering or using the road."

We propose amending Schedule 10 of the LGA1974 so that local authorities can close roads for events more regularly

60 As noted above, local authorities want to be able to close streets on a regular basis for short periods of time – for example, to close streets for weekly markets that would exceed the current limit of 31 closures per year.

61 We propose the following amendments to the LGA1974:

61.1 Amend section 11(e) in Schedule 10 to enable local authorities to temporarily close streets for any event or market beyond the current limit of 31 days per year.

We also propose amending Schedule 10 of the LGA1974 so that local authorities do not rely on these provisions to install pilots or other street changes

62 Schedule 10, section 11(b) of the LGA974 allows councils to temporarily close a road in situations “where, in order to resolve problems associated with traffic operations on a road network, experimental diversions of traffic are required...”. This section has typically been used by councils for installing pilots or other specific changes like school streets under current settings. However, many councils have advised that they are not adequately empowered by Schedule 10 to install pilots or similar changes.

63 As the new rule aims to introduce a clear process for installing pilots, we want local authorities to use the new rule, rather than relying on provisions in Schedule 10.

64 To avoid confusion or legal ambiguity, we propose to consult on two potential amendments Schedule 10, section 11(b):

64.1 Remove “experimental diversions of traffic” and replace it with wording related to traffic operations, or

64.2 Remove Schedule 10, section 11(b) from the LGA1974.

We propose amending provisions for pedestrian malls

65 Local authorities are guided by the consultation principles and requirements established in the LGA2002. This enables local authorities to decide how to best consult with their local communities. Local authorities also have their own policies and guidelines for consultation.

66 The LGA1974 sets additional consultation requirements for two types of street changes: establishing pedestrian malls and transport shelters. This is an inconsistency in the current regulatory framework, as it is unclear why specific requirements have only been set for these two types of street changes and not other types of street changes such as roadway widening.

67 To create a pedestrian mall, local authorities need to use section 336 of the LGA1974, which requires them to use the special consultative procedure.¹⁵ This section also establishes that any person can appeal the declaration of a pedestrian mall to the Environment Court. This can add significant cost and delays to a project if anyone lodges an appeal. The advisory group noted that these requirements make it unnecessarily difficult and costly to establish pedestrian malls.

68 We therefore propose making the following change to the LGA1974:

¹⁵ The special consultative procedure is outlined in section 83 of the LGA2002.

- 68.1 Amend section 336 (Pedestrian malls) to remove the requirement for local authorities to use the special consultative procedure to declare a pedestrian mall and remove the right of appeal to the Environment Court. Local authorities would still need to apply the consultation principles established in the LGA2002 and use the special consultative procedure when appropriate. Members of the public could still seek a judicial review of a decision to establish a pedestrian mall. As we have only discussed this proposal with the advisory group, it would be useful to hear wider public views on this proposal during consultation.

We propose amending provisions for erecting transport shelters

- 69 As noted above, the LGA1974 sets specific consultation requirements for erecting transport shelters, including bus shelters. To install a shelter, local authorities must give written notice to the occupier and landowners of any land affected by the erection of the shelter, give opportunities to hear their concerns, and cannot make a resolution to erect a shelter until the council has heard all objections.
- 70 It is unclear why local authorities are required to follow these specific requirements just for transport shelters and not for installing other public facilities, such as pedestrian crossings, seats, or public toilets. Feedback from local authorities is that this requirement creates an unnecessary administrative burden as they often go through two separate processes – passing a traffic resolution to set up a bus-stop and install relevant markings and signs, then following the additional consultation process outlined in section 339 of the LGA1974. Local authorities can use other legislative provisions to create transport shelters (like traffic resolutions), so this section of the LGA1974 is unnecessary and could be repealed.
- 71 We therefore propose making the following changes to the LGA1974:
- 71.1 Repeal section 339 (Transport shelters). Local authorities would be able to install transport shelters by traffic resolution instead. This would make the process to install transport shelters consistent with similar processes, such as the process to install a bus stop without a transport shelter.

Part three would make the legislative system for making streets changes more coherent

- 72 If a new rule is created and Cabinet agrees to proceed with proposed changes to the LGA1974, some sections of the LGA1974 could be moved to the new rule. This would make the legislation easier for local authorities to navigate and apply, as they would not need to use multiple pieces of legislation to make similar kinds of street changes.
- 73 Road closures for public events should ideally sit in the same piece of legislation. We therefore propose to:
- 73.1 shift equivalent powers to section 11(e) in Schedule 10 (covering road closures for events and markets) to the new rule
- 73.2 revoke the 1965 Regulations and ensure that the new rule includes provisions equivalent to the 1965 Regulations powers to close roads for processions, carnivals, and celebrations.

We considered additional regulatory changes that we do not recommend

- 74 We considered setting minimum consultation requirements for making some types of street changes (e.g. for repurposing space currently used for on-street car parking for other purposes). The advisory group advised against this. They were satisfied that they already have sufficient discretion under the LGA2002 to decide whether to consult on proposed changes, and how to undertake consultation.
- 75 The exception to this is for pilots. As noted above, the pilot process is used as a form of consultation to collect public feedback based on direct experience.
- 76 We could seek wider public views during the consultation process on whether the new rule should establish minimum or limited consultation requirements (e.g. for removing and repurposing on-street car parks).
- 77 We also considered including a provision in the new rule for local authorities to rapidly make temporary street changes in emergency situations such as pandemics or major disruptions to the energy system, without requiring any prior consultation.
- 78 During the first wave of responses to the COVID-19 pandemic internationally, many cities around the world rapidly made street changes to enable safe physical distancing and give more priority to people travelling by bike or foot.
- 79 In New Zealand, local authorities were less responsive in making similar changes. This may reflect the different situation in New Zealand, where COVID-19 was initially eliminated after the first lockdown, and urban densities are lower compared to some international cities. However, the slow and measured response may also partly reflect a lack of certainty about the legal basis for local authorities to make rapid street changes in an emergency like a pandemic without needing to follow prescribed consultation processes.
- 80 Several local authorities sought clarification from central government on the legal basis for making rapid street changes in this situation as they were not confident about their ability to do so.
- 81 The proposed package should resolve this issue. Local authorities would be able to use pilots to rapidly roll out temporary street changes, without prior consultation. They could then engage with communities on whether any of the temporary changes should be made permanent. We could provide local authorities with guidance to clarify this during the new rule's implementation.

Most of the proposed changes could be progressed through a new rule

- 82 We have worked through ways to progress as many as possible of the proposed changes through a new rule ahead of any primary legislation changes.
- 83 Table 1 summarises which of the proposed changes could be addressed through the new rule and what would require changes to the LGA1974. This table also identifies which changes to the LGA1974 could potentially be included in the Regulatory System (Transport) Amendment Bill (RSTA), which is discussed further below.

Table 1: Overview of how proposed regulatory changes could be addressed in legislation

Issue	Rule	LGA1974 changes	RSTA
Piloting street changes			
Street pilots tool	Yes	Change Schedule 10, section 11(b)	No
Filtering traffic			
Using devices to filter traffic	Mostly	Change section 334(1)(d)	No
Temporarily closing roads			
Pilots/trials	Yes	Not required	Not required
School Streets	Yes	Not required	Not required
Play streets	Yes	Not required	Not required
Regular public events	No	Change Sched 10 section 11(e)	No
Other issues			
Pedestrian malls process	No	Amend section 336	No
Transport shelters process	No	Repeal section 339	Yes
Piloting speed limits	Amend the <i>Land Transport Rule: Setting of Speed Limits 2022</i>		
Regular public events	Revoke the 1965 Regulations		

We have updated the timeframes for progressing these proposals

- 84 The table in Annex 2 identifies milestones and dates for the proposed regulatory changes (subject to Cabinet agreement). These timelines are based on lodging a Cabinet paper with DEV on 22 June 2022, to seek agreement on 29 June 2022 to consult on the proposed package.

Timing for the new rule

85 s 9(2)(f)(iv)

86 s 9(2)(f)(iv)

Timing for the LGA1974 changes

87 s 9(2)(f)(iv)

88 s 9(2)(f)(iv)

¹⁶ Section 152 of the LTA1998

89

s 9(2)(f)(iv)

90

s 9(2)(f)(iv)

We have considered whether any proposed changes to the LGA1974 could be included in the RSTA

91 At the officials meeting on 11 April 2022, you asked us to consider opportunities to address minor changes to the LGA1974 through the RSTA.

92 We have assessed the proposed changes to the LGA1974 for Reshaping Streets against the objectives of the RSTA.¹⁷ We have also considered which proposals would involve substantive changes to the meaning of existing legislation.

93 Based on this assessment, there is only one proposal that could be considered for inclusion in the RSTA. As highlighted in Table 1 above, this is revoking section 339 (Transport shelters) to simplify the process for erecting transport shelters.

94 This change is a relatively minor component of the proposed package. If we make changes to the LGA1974 through separate amendments, it would add more complexity to the legislative process and potentially increase confusion for local authorities when it comes to commencement. We therefore do not recommend progressing this part of the package separate from the other proposed changes.

Risks

95 Public consultation on the proposed regulatory changes could potentially be shortened from the standard six week to four weeks. We do not recommend this, as there are two major risks associated with this option.

95.1 Firstly, local authorities have indicated that they currently need to respond to a wide variety of proposed initiatives from central government, including major legislative reform programmes. The advisory group suggested that it would be unreasonable to run a shortened consultation process for Reshaping Streets, as this would limit their ability to provide feedback on these changes.

95.2 Secondly, if we deliver an effective consultation process this will strengthen the case for a quicker Select Committee process for an amendment Bill. A shortened consultation process may undermine this.

¹⁷ These objectives are: improving the effective use of technology; clarifying the regulatory roles, responsibilities and requirements in the regulatory system; maintaining safety through responsive regulatory action; addressing inconsistencies, improving system efficiencies and removing duplication; and modernising transport legislation to ensure it is fit-for-purpose.

- 96 There is a risk that if we do not begin consultation by July 2022, delivery of the proposed package will be delayed by several months. This is because local government elections will take place on 8 October 2022. DIA and local authorities have signalled that consultation needs to be completed well before September 2022 to avoid any difficulties associated with providing feedback during the pre-election period.
- 97 While local authorities have been broadly supportive of the Government's intention to progress regulatory changes to make it simpler and quicker for them to make street changes, it is unclear how other stakeholders could respond to these proposals during consultation. Proposals associated with reallocating road space can sometimes be politicised by individuals or groups who object to street changes. The proposed package may therefore attract significant media attention. While this could be seen as a risk, it is also an opportunity to reinforce the important role that street changes will play in meeting government priorities for emissions reduction, safety, health, and urban development.

Consultation

- 98 We are working closely with Waka Kotahi on the proposed package and collaborated with them on this briefing.
- 99 We consulted DIA on this briefing and are working with them on the proposed changes to the LGA1974.

Next steps

- 100 We will provide you and the Minister of Local Government with a joint briefing from the Ministry and DIA, which we are aiming to deliver by the end of May 2022. This briefing will seek approval to include changes to the LGA1974 in the proposed package.
- 101 We will then provide you with a draft Cabinet paper for consideration by the Cabinet Economic Development Committee (DEV), which we are aiming to provide in the week ending 3 June 2022. This will advise Cabinet on the proposed package and seek approval for public consultation. We suggest making this a joint DEV paper between you and the Minister of Local Government, as the content of the proposed package spans both portfolios. The Cabinet Paper will include an interim Regulatory Impact Statement, draft consultation document, and a draft rule. Work to complete these documents is well underway.

Annex 1: Overview of the proposed Reshaping Streets regulatory package

The details for each proposed change may be adapted following consultation.

Part 1 – Introduce changes via a new rule			
#	Proposed change	Overview	
Proposal 1: Empower local authorities to pilot street changes, pilot speed limits, and trial traffic control devices			
1A	Create powers for pilots in new rule	<ul style="list-style-type: none"> Pilots are short term changes used to test different street designs, prototypes, or changes in various street environments. Clarify that local authorities can install pilots (using any decision-making mechanism they choose) provided they follow the requirements in the rule. 	
1B	Clarify that pilots can be used as formal consultation	<ul style="list-style-type: none"> When a pilot is installed, the pilot itself will be considered formal consultation on the change. Local authorities would not be required to carry out consultation prior to installing the pilot, or after the pilot has ended (but they can if they want to). 	
1C	Allow for pilots to made permanent	<ul style="list-style-type: none"> If a change has been tested and consulted on as part of a pilot, and the local authority decides that no further consultation or engagement is needed, a local authority can make a pilot permanent without further consultation. Local authorities can follow additional steps before making these changes permanent if they want to, but this up to the local authority. 	
1D	Enable pilot speed limits	<ul style="list-style-type: none"> Allow local authorities to temporarily lower the speed limit to support a pilot and promote safety (through the <i>Setting of Speed Limits Rule</i>). 	
1E	Streamline the process for local authorities to trial traffic control devices	<ul style="list-style-type: none"> Change requirements for TCD trials (in the TCD Rule) so that local authorities can choose how they notify the public (currently they must inform the public via newspapers) and can give a minimum of one week's notice before the trial begins (currently it is two weeks' notice). 	
Proposal 2: Allow local authorities to install modal filters and other features for the purposes of filtering or restricting traffic			
2A	Local authorities can install modal filters	<ul style="list-style-type: none"> A modal filter is a physical object(s) that restricts certain users or classes of vehicles from accessing or passing through a section of road. Clarify in the rule that local authorities can install modal filters. 	

2B	Local authorities can install regulatory filters	<ul style="list-style-type: none"> Allow local authorities to use signs and/or markings to restrict or limit motor traffic from accessing certain areas. These features could be used to support modal filters or used without modal filters. 	
2C	An area with modal filters installed is considered a filtered traffic area	<ul style="list-style-type: none"> Introduce and define a new term – Filtered Traffic Area. These are areas that are designed or laid out for the purposes of filtering different road users or vehicle classes, by using traffic control devices, modal filters or other features. Local authorities would not have to declare these spaces to be filtered traffic areas. If access to a road or path is filtered in any way, then it is automatically considered a filtered traffic area. 	
Proposal 3: Empower local authorities to close, or partially close, roads to create school streets and play streets			
3A	Allow local authorities to install School Streets	<ul style="list-style-type: none"> A School Street is a road located outside a school that has restrictions on motorised traffic at school drop off and pick up times. The restriction would apply to people driving motor vehicles to or from the school or through the street that the school is on. This could be applied every morning and evening, on alternating days, or on alternating mornings and evenings. Allow local authorities to work with local schools to install School Streets either as a pilot, or a permanent street change, provided they follow requirements in the rule (i.e. notify the public and have approval from the relevant school). 	
3B	Allow local authorities work with residents to install Play Streets	<ul style="list-style-type: none"> Play Streets are small, resident-led, street changes (supported by local authorities) that temporarily restrict vehicles on quiet local streets so children and parents can play or hold activities on the street. Play Streets often last for a couple of hours and can be held on a semi regular basis (e.g. once per month). Local authorities would be able to approve requests from residents to install Play Streets and must ensure that residents follow Waka Kotahi guidelines for Play Streets. 	
Proposal 4: Allow the Director of Land Transport to investigate compliance with the rule			
4A	Provide the Director of Land Transport with powers for compliance	<ul style="list-style-type: none"> Clarify that the Director of Land Transport may investigate compliance with the rule, and may direct a local authority to review, change, or modify a non-complying street change that has been installed under the rule. 	

Part 2: Shift transport content in the LGA1974 to transport legislation and amend or repeal some sections			
#	Proposed change	Overview	
Proposal 5: Provide a strong legal foundation for the new rule			
5A	Repeal or amend Schedule 10, section 11(b) to clarify that this section should not be applied to pilots	<ul style="list-style-type: none"> Section 11(b) is currently used by local authorities to pilot street changes, or other types of road closures (like Play Streets). We need to repeal or amend this to clarify that this should not be used by local authorities for installing pilots or other types of road closures outlined in the new rule. This will remove legal ambiguity for local authorities. We still need to confirm whether this section should be repealed or amended. We propose consulting on both options to confirm which option works best for local authorities. 	
5C	Repeal Schedule 10, section 11(e) of the LGA1974 and shift amended powers to close roads for events to the new rule	<ul style="list-style-type: none"> Section 11(e) would be repealed from primary legislation, with updated powers shifted to the new rule (co-ordinated with part 3). The 31-day limit would be removed so local authorities can close roads for events on a more regular basis. 	
5D	Remove references to “unduly impede vehicular traffic” in section 334 of the LGA1974	<ul style="list-style-type: none"> Removing this reference addresses the assumption in current legislation that motor vehicles should have access to all roads. This will empower local authorities to make street changes that may restrict motor traffic in some places to provide safety and mobility benefits to people travelling by different modes. 	
Proposal 6: Address consultation inconsistencies in the LGA1974			
6A	Repeal section 336 (Pedestrian malls) and shift updated powers to create pedestrian malls to the new rule	<ul style="list-style-type: none"> Currently, local authorities have to use the special consultative procedure to install pedestrian malls and they can be challenged via the Environment Court. Other types of street changes are not subject to these requirements. Removing these requirements would provide local authorities with a more straightforward process to install pedestrian malls, consistent with other powers. This whole section could be repealed when the LGA1974 is amended – with updated powers to create pedestrian malls shifted to the new rule (co-ordinated with part 3). 	
6B	Repeal section 330 (Transport shelters)	<ul style="list-style-type: none"> Currently, local authorities must follow an additional consultation process to install transport shelters, when similar changes (like installing a bus stop and relevant markings) require a traffic resolution, which has its own consultation requirements. 	

		<ul style="list-style-type: none"> Repealing section 330 would enable local authorities to consult on and install transport shelters in the same way as all other relevant changes. 	
Part 3: Amend the new rule to add some powers shifted from the LGA1974 and other legislation			
<i>Note: Parts two and three would be closely co-ordinated, so that local authorities would not lose any necessary powers during this transition. The rule would be updated after the LGA1974 amendments are enacted, but before the commence date for these legislative changes.</i>			
#	Proposed change	Overview	
8	Add powers in the new rule equivalent to schedule 10, section 11(e) of the LGA1974	<ul style="list-style-type: none"> This would enable all rules/regulations related to road closures for events to be in one place (i.e. the new rule) 	
9	Add updated powers for pedestrian malls in the new rule (currently in section 336 of the LGA1974)	<ul style="list-style-type: none"> This would enable similar types of street changes (e.g. pedestrian malls and filtered traffic areas) to be contained in the same legislation. 	
10	Consult on whether provisions (in either legislation or land transport rules) would sit well in the new rule	<ul style="list-style-type: none"> There are street features in other rules (e.g. shared zones in the Road User Rule) that could be moved to the new rule so that local authorities can look to one place when they want to make street changes. We plan to consult on a set of street changes that could be transferred to the new rule to seek the views of councils on whether this would be helpful. 	
11	Repeal the 1965 Regulations and add equivalent powers in the new rule	<ul style="list-style-type: none"> Repeal the 1965 Regulations, so that the new rule is the main instrument for closing roads for the purposes of events. This will provide clarity to local authorities and remove legal ambiguity. Ensure the new rule contains equivalent provisions to the 1965 Regulations to close roads for events such as processions, carnivals, and celebrations. 	

Annex 2: Timeline for progressing the Reshaping Streets regulatory package

Cabinet consideration and consultation	
Lodge Cabinet Paper with DEV – seeking agreement to consult	22 June 2022
DEV meeting	29 June 2022
Public consultation	11 July – 19 Aug 2022
The new rule (subject to agreement)	
Analysing public feedback and completing submissions summary	s 9(2)(f)(iv)
Policy finalisation	
Post consultation briefing and Cabinet Paper to Minister	
Issue final drafting instructions/ prepare post-consultation materials	
Departmental Consultation	
Lodge the new rule and supporting documents with Cabinet	
Cabinet committee decision considered by Cabinet Committee	
Gazetting the new rule	
LGA1974 changes (subject to agreement)	
Analysing public feedback on LGA1974 proposals	s 9(2)(f)(iv)
Finalising proposed LGA1974 changes	
Briefing summarising public feedback on LGA1974 and any proposed changes	
Drafting Cabinet paper, finalising RIS, and proposed drafting instructions	
Providing you with a draft Cabinet paper and final Regulatory Impact Statement	
Departmental and Ministerial consultation on Cabinet paper	
Final changes to Cabinet paper, drafting instructions, and statement of compliance	
Seeking your approval of final documents	
Lodge Cabinet paper with DEV	
DEV meeting to agree to issuing drafting instructions	
Cabinet meeting to approve drafting instructions	
Drafting instructions to PCO	
Drafting Bill	
Ministerial consultation	
Lodge draft Bill with LEG	
LEG meeting to approve Bill	
Cabinet meeting to approve Bill	
Introduction to the House	
First Reading	
Select Committee	
Second Reading	
Committee of the Whole	
Final Reading	
* Dates from March 2023 onwards are approximate, as the Cabinet and House calendars have not yet been released	