

# Regulatory Impact Statement: Reshaping Streets

## Coversheet

Purpose of Document	
Decision sought:	<p><i>This analysis is produced to inform Cabinet decisions on public consultation for regulatory options to support local authorities to make street changes that provide for public transport, active travel, and placemaking.</i></p> <p><i>This is an interim Regulatory Impact Statement (RIS). It will be finalised after public consultation on proposed regulatory changes.</i></p>
Advising agencies:	<i>Ministry of Transport, Waka Kotahi NZ Transport Agency</i>
Proposing Ministers:	<i>Minister of Transport</i>
Date finalised:	<p><i>This is an interim RIS, completed on 31 May 2022.</i></p> <p><i>A final RIS will be completed after public consultation on the proposed regulatory changes.</i></p>
Problem Definition	
<p>Local authorities need to make street changes that provide for public transport, active travel, and placemaking at the pace and scale required to deliver on national priorities including emissions reductions and road safety. The current regulatory framework does not support this.</p>	
Executive Summary	
<p>Widespread street changes are needed to deliver on strategic transport priorities for emissions reductions, safety, and providing people with better travel options.</p> <p>The Emissions Reduction Plan (ERP) includes actions to accelerate street changes at a local level to deliver dedicated bus lanes, bike/scooter networks, and walking improvements by reallocating street space in urban areas. One of these actions is to “consider regulatory changes to make it simpler and quicker to make street changes.”</p> <p>Te Manatū Waka Ministry of Transport (MoT) engaged with local authorities to investigate if there are any issues with the current regulatory system that need to be considered. This work was guided by these objectives:</p> <ol style="list-style-type: none"><li>1. support local authorities to quickly make widespread street changes that support public transport, active travel, and placemaking</li><li>2. encourage these changes to occur by reallocating and managing existing road space.</li></ol> <p>We identified four areas where local authorities, as road controlling authorities (RCAs), face significant issues when seeking to make street changes that support public good outcomes, including public transport, active travel, and placemaking:</p>	

1. piloting/trialling street changes
2. filtering traffic
3. temporarily closing roads
4. making decisions at appropriate levels.

In each of these areas, we identified options to resolve these issues. Central government has a range of levers that it could use to accelerate street changes at a local level. These include regulatory options, guidance, and funding levers. Funding options were not considered in this analysis, as they are being addressed through other workstreams. The options therefore focused on regulatory options and guidance.

Options were assessed against three criteria: effectiveness, efficiency, and flexibility. Based on this analysis, we recommend making regulatory changes to:

- create a new regulatory tool to pilot/trial street changes
- enable RCAs to filter traffic, and to use objects to do so
- broaden the circumstances in which local authorities are permitted to temporarily close roads.

We also recommend providing guidance to local authorities on:

- how these regulatory changes will affect and support them
- making decisions at appropriate levels.

We would expect this to deliver:

- a system that will more effectively improve travel options, reduce emissions, and benefit public health and safety
- a more efficient regulatory system that reduces costs for local authorities
- more effective community engagement.

In the counterfactual scenario of not making these changes, it will be more difficult to deliver on national strategies and to meet the target in the ERP of a 20 percent reduction in vehicle kilometres travelled by cars and light vehicles by 2035 through improved urban form and providing better travel options. This would then create more pressure to reduce New Zealand's emissions by other means (e.g. through deeper emissions reductions in other sectors). There is also a risk that Crown investments to boost travel by foot, bike, and public transport will not be optimally spent.

Local authorities have expressed strong support for central government to address the key issues above through regulatory changes.

### **Limitations and Constraints on Analysis**

Funding options are not covered by this RIS, as funding issues are being addressed through other workstreams to deliver on the ERP.

This analysis covers regulatory challenges and opportunities for RCAs to make physical changes to streets that support public transport, active travel, and placemaking. It excludes broader regulatory approaches to support public transport, active travel and placemaking. In particular, it does not include regulations that govern how people are legally allowed to use street spaces (e.g. rules for using bikes and scooters on

footpaths), which are currently being addressed through the Accessible Streets package.<sup>1</sup>

**Responsible Manager(s) (completed by relevant manager)**

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Te Manatū Waka Ministry of Transport



30 May 2022

**Quality Assurance (completed by QA panel)**

Reviewing Agency:	Te Manatū Waka Ministry of Transport (MoT) and Waka Kotahi NZ Transport Agency (Waka Kotahi)
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Panel Assessment & Comment:	A panel comprised of representatives from MoT and Waka Kotahi has reviewed this regulatory impact assessment and consider that the information and analysis summarised in it meets the quality assurance criteria.
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<sup>1</sup> Government is addressing changes to road user rules that support travel by public transport and active modes through another regulatory package called [Accessible Streets](#). Accessible Streets does not address changes to the physical layout of streets/roads. For example, it covers who can legally use bike paths/lanes but does not cover how local authorities establish bike paths/lanes.

# Section 1: Diagnosing the policy problem

## 1.1 The strategic context

1. Streets are public spaces that can be used for various purposes. Most streets in New Zealand have been built to prioritise flows of private vehicles, and the storage of those vehicles through on-street parking. Widespread street changes<sup>2</sup> are now needed to deliver on strategic transport priorities for emissions reduction, safety, and providing people with better travel options.<sup>3</sup> 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.

### *Street changes are essential for meeting our emissions reduction targets*

2. On 2 December 2020, the Government declared a climate emergency and committed to take urgent action to reduce emissions. The Government's Emissions Reduction Plan (ERP) identifies how New Zealand will meet its international climate obligations and domestic targets.
3. Transport emissions need to fall by 13 percent by 2030, and 41 percent by 2035, to meet our national emissions reduction targets. The transport chapter of the ERP includes four targets to achieve this, which need to be met together. The first target aims to "reduce VKT (vehicle kilometres travelled) by cars and light vehicles by 20 percent by 2035 through improved urban form and providing better travel options, particularly in our largest cities."
4. Making changes to existing streets can rapidly improve options for people travelling by foot, bike/scooter, and public transport. For example, repurposing some on-street car parking spaces to deliver dedicated/priority bus lanes can increase the capacity, speed, and reliability of bus networks (thereby making better use of existing bus fleets). Similarly, reallocating street space to deliver bike/scooter lanes can support the rapid delivery of bike/scooter networks.
5. Reallocating road space can be a cost-effective way to make better use of existing infrastructure, instead of building wider streets. In many built-up urban areas, it is also unfeasible or prohibitively expensive to widen streets by acquiring more land.
6. In its advice to Government on how to meet emissions targets, the Climate Change Commission (CCC) recommended "retrofitting existing public spaces and infrastructure to prioritise the use of active and public transport and other low emissions choices."<sup>4</sup>
7. This is recognised in the ERP, which also includes the following actions that Government has committed to:

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<sup>2</sup> A note on terminology: the terms 'streets' and 'roads' are often used inter-changeably in this document (as they are in common 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.

<sup>3</sup> These strategic priorities are established in the [Government Policy Statement on Land Transport 2021](#), and in the [Emissions Reduction Plan](#) released in May 2022.

<sup>4</sup> [Recommendation 16](#) from *Ināia tonu nei: a low-emissions future for Aotearoa*

- incentivise local government to quickly deliver bike/scooter networks, dedicated bus lanes, and walking improvements by reallocating street space, including during street renewals
- scale up Waka Kotahi's Innovating Streets for People programme to rapidly trial street changes
- consider regulatory changes to make it simpler and quicker to make street changes.

### *Street changes could reduce deaths and injuries*

8. The Government is committed to a vision for New Zealand where no one is killed or seriously injured in road crashes. This is outlined in *Road to Zero: New Zealand's Road Safety Strategy for 2020-2030*.<sup>5</sup> This strategy recognises a need for safer streets in urban areas to support active travel. It includes an action to enhance the safety and accessibility of footpaths, bike lanes, and cycleways.
9. Cyclists in New Zealand are over-represented in deaths and serious injuries statistics, so streets need to be safer for people travelling by bike/scooter<sup>6</sup>. More dedicated bike/scooter lanes would make footpaths safer for people travelling by foot (including disabled people), by reducing bike/scooter use on footpaths.
10. Public transport is the safest mode of travel in New Zealand, so street changes that support public transport use, such as dedicated/priority bus lanes, would also help to deliver on the Government's road safety vision.

### *Street changes would support government's wider priorities*

11. These priorities include the following:
  1. Improving public health – New Zealand has the third highest adult obesity rate in the OECD, partly due to lack of physical activity. 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, run, scoot, or cycle. By making streets safer and more attractive for walking and cycling, New Zealanders will have the opportunity to incorporate more physical activity into their daily life.<sup>7</sup>
  2. Delivering on the Urban Growth Agenda (UGA)<sup>8</sup> – the transport system needs to support recent policies that enable more urban intensification.<sup>9</sup> Streets that

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<sup>5</sup> [Road to Zero Strategy](#)

<sup>6</sup> In 2020, MoT reported 11 cyclist deaths and 146 serious injuries.

<sup>7</sup> The Ministry of Health – Manatū Hauora has been developing a *Position Statement on Healthy Urban Development*. The draft recognises the importance of well-connected urban environments for health and well-being, with appropriate space for walking, cycling, and public transport. It also notes that regular physical activity (including active play and active transport) is vital for children's physical and cognitive development. The importance of street design and effective car parking management for health is also highlighted in the [World Health Organisation's Global Action Plan on Physical Activity](#).

<sup>8</sup> The objectives of the UGA (revised in 2021) are: affordable housing, emissions reductions, and liveable and resilient cities.

<sup>9</sup> These policies include the [National Policy Statement on Urban Development](#), as well as changes driven by the *Resource Management (Enabling Housing Supply and Other Matter) Amendment Act 2021*.

support travel by public transport, bike, scooter, and foot enable more efficient use of urban space than streets primarily designed for moving and storing/parking cars and other light vehicles. Placemaking improvements on streets, including green spaces and areas to rest, gather, or play, could also make urban areas more liveable and accessible.<sup>10</sup>

### *Te Manatū Waka Ministry of Transport (MoT) investigated ways to accelerate beneficial street changes*

12. In 2021, MoT investigated what central government could do to catalyse street changes at a local level, in a project called *Reshaping Streets*.<sup>11</sup> This focused on understanding the challenges and opportunities of reallocating street space to deliver more bus lanes, bike/scooter lanes, low traffic neighbourhoods, and walking improvements.
13. This scoping was based on research and interviews with representatives from other transport agencies, local authorities, and community groups.
14. MoT identified three opportunity areas for central government to accelerate widespread street changes:
  1. enable quick high-impact, low-risk, and low-cost street changes
  2. change funding levels, settings, and requirements to strongly incentivise street changes
  3. maximise opportunities to improve streets during renewals.
15. Based on this scoping, the Minister of Transport directed MoT to investigate if any changes should be made to the regulatory system to support local authorities in making street changes.
16. MoT investigated regulatory challenges and opportunities from June 2021 to March 2022. This involved further analysis, a workshop with approximately 50 representatives from most city and district councils in New Zealand, a survey to capture detailed feedback, and follow-up meetings with legal teams from local authorities.
17. This investigation informed the content in this Regulatory Impact Statement (RIS).

## **1.2 The current regulatory framework for making street changes**

18. The current regulatory framework enables local authorities to make many street changes that support public transport, active travel, and placemaking, but does not support them in making all the changes that they need to make.
19. To make street changes, local authorities need to use a mix of regulatory instruments. These include primary legislation, secondary legislation created by central government

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<sup>10</sup> Placemaking is a process of turning spaces into vibrant public places, to strengthen the connection between people and the places that they share. This can deliver various social, cultural, environmental, and economic benefits.

<sup>11</sup> MoT (2021), *Reshaping Streets – Scoping Summary: Investigating what central government could do to support public transport, active travel, and placemaking by accelerating widespread street changes*. Unpublished scoping report.

(rules and regulations), and bylaws created by local authorities. Various standards, guidelines, and policies also guide what local authorities do.

20. Current legislation established by central government only empowers local authorities to make some types of street changes. For example, the *Local Government Act 1974* (LGA1974) provides clear powers to create parking spaces, and to form and upgrade footpaths. For other types of street changes (e.g. to create bus lanes), local authorities have to make their own bylaws by applying section 22AB of the *Land Transport Act 1998* (LTA1998). The bylaw-making process is complex and resource-intensive.
21. Table 1 in Appendix 1 summarises the main regulatory instruments that local authorities need to use to make street changes that support public transport, active travel, and placemaking.
22. Table 2 in Appendix 1 summarises which regulatory instruments local authorities need to use to make specific types of street changes. It also identifies what legislation guides any consultation principles or requirements.<sup>12</sup>
23. As the tables in Appendix 1 illustrate, most street changes that support public transport, active travel, and placemaking require the use of bylaws and resolutions, and/or the LGA1974.
24. The following section outlines issues associated with the current regulatory framework, and opportunities for improvements.

### 1.3 The core policy problem

25. Local authorities need to make street changes that support public transport, active travel, and placemaking at the pace and scale required to deliver on national priorities including emissions reductions and road safety. The current regulatory framework does not support this.
26. There are three underlying reasons for this:
  - The transport and planning systems, including regulations, have historically prioritised movements of private vehicles on roads, and the storage of those vehicles through parking. These systems need to be re-oriented to cater for the multiple movement and place functions that streets and roads need to play.
  - Changes disrupt what people are accustomed to. Streets are public spaces and communities are seldom united on how they should be used. Some people strongly resist changes, especially if they have an interest in maintaining the status quo, while others advocate for improvements, making it politically difficult to introduce changes. Opponents of street changes sometimes take legal action against local authorities for proposed projects or threaten legal action. This can make local authorities hesitant to make changes, especially if they are risk-averse.

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<sup>12</sup> This table only identifies regulatory instruments that local authorities can use to make street physical street changes. It does not cover regulations associated with road user rule or the setting of speed limits, as these are beyond the scope of Reshaping Streets.

- The impetus for making street changes has shifted. As highlighted in section 1.1, there is now greater urgency to make street changes to deliver on national strategic priorities.
27. The regulatory system reflects a historical emphasis on prioritising roads for vehicles. For example, a key piece of legislation for roads – the LGA1974 – provides local authorities with powers to construct roads<sup>13</sup> and to provide car parking places.<sup>14</sup> The LGA1974 does not require local authorities to consider how on-street car parks could affect traffic flows, or other factors, such as safety, even though on-street car parking can significantly impede traffic on high-movement corridors.<sup>15</sup> In contrast, the LGA1974 only enables local authorities to construct facilities on the road (such as pedestrian crossings) if these “will not unduly impede vehicular traffic.”<sup>16</sup>
  28. Similarly, the LGA1974 sets out limited provisions to temporarily restrict vehicles from using roads, including limitations that road closures for events “would not impede traffic unreasonably.”<sup>17</sup>
  29. In September 2021, MoT surveyed local authorities to understand what regulatory issues they encounter when making street changes. Survey participants were asked to indicate on a scale the degree to which the current regulatory framework hinders or empowers them to make various types of street changes (e.g. removing and repurposing on-street car parks, relocating street space for footpath or pedestrian improvements, traffic calming to slow vehicles). The survey was sent to 54 people from 22 local authorities, and MoT received responses from 21 people.<sup>18</sup> Among those who participated in this survey:
    - 32% responded the current system “prevents” them from making changes
    - 42% responded it makes it “too difficult” to make changes
    - 11% were neutral, and
    - 16% responded that the system “enables” them to do what they need to do.

*There are four key issues associated with the regulatory system that need addressing*

30. Through our engagement with local authorities and further analysis, we identified four main issues for local authorities when they try to make street changes that support public transport, active travel, and placemaking. These are:
  - Issue 1: piloting/trialling street changes

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<sup>13</sup> [Section 319](#) of the LGA1974

<sup>14</sup> [Section 591](#) of the LGA1974

<sup>15</sup> On-street car parking takes up space that could be used for movement (by private vehicles, public transport, or active modes) and traffic is also delayed when people enter/exist car parks.

<sup>16</sup> [Section 334\(1\)\(d\)](#) of the LGA1974

<sup>17</sup> [Schedule 10](#) of the LGA1974

<sup>18</sup> Responses were received from Auckland Council, Auckland Transport, Gisborne District Council, Hutt City Council, Marlborough Roads – Waka Kotahi NZ Transport Agency, Palmerston North City Council, Queenstown Lakes District Council, Tasman District Council, Tauranga City Council, and Wellington City Council. Seven respondents did not enter their contact details/agency.



- Issue 2: filtering traffic
- Issue 3: temporarily closing roads in sufficient circumstances
- Issue 4: making decisions at appropriate levels.

### **Issue 1: Piloting/trialling street changes**

31. International experience demonstrates that 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.<sup>19</sup>
32. Street pilots also enable local authorities to quickly roll out low-cost changes to streets, and to rapidly adapt these based on evidence and community feedback.
33. Local authorities, therefore, need to be able to pilot all types of street changes, including powers to temporarily close streets as parts of pilots.
34. Beyond the limited powers to temporarily close roads noted above, the current regulatory framework is geared towards making permanent street changes. This makes it difficult and resource-consuming to trial street changes. For example, the requirement to approve street changes through traffic resolutions undermines the purpose of trialling 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 local authorities' 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.
35. Waka Kotahi has collected case studies from local authorities that have struggled to pilot/trial street changes due to uncertainties about the legal basis for undertaking pilots/trials (this issue is elaborated on further below). 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.
36. Local authorities sometimes use *Temporary Traffic Management Plans* (TMPs) for trialling street changes instead of bylaws and resolutions. However, TMPs are primarily designed to keep road workers safe during road work construction. It can be time-consuming to get approval for a TMP, and ongoing traffic management is expensive. TMPs also require an approved traffic management contractor to be on site, which limits officials' ability to make ongoing tweaks to trials.
37. A clear regulatory framework to pilot street changes would support delivery of the ERP action to "scale up Waka Kotahi's Innovating Streets for People programme to rapidly trial street changes."

### **Issue 2: Filtering traffic**

38. Filtered traffic areas have streets that limit through-movements of some vehicles (e.g. cars and trucks), while maintaining access for people travelling by other modes (e.g. by foot, bike, or scooter). Devices such as bollards are used to prevent vehicles from

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<sup>19</sup> Some examples are provided by the UK's Department for Transport (2021), [Gear Change: One Year On](#).

entering or leaving one end of a street. People can still access places on that street by vehicles through another route.

39. Filtered traffic areas are an integral part of Auckland City Centre's Masterplan<sup>20</sup> and proposals being investigated by the Wellington City Council to create a low traffic circulation plan. RCAs also need to be able to restrict through-traffic to create safer and quieter residential areas in some places, known as low-traffic neighbourhoods, which encourage active travel.<sup>21</sup>
40. Local authorities need clear powers to restrict vehicles from accessing roads to create filtered traffic areas, including through the use of bollards, but current legislation does not support this other than for pedestrian malls.
41. The LGA1974 provides that 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."<sup>22</sup>
42. RCAs can make their own bylaw under the 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."<sup>23</sup> This effectively excludes local authorities from restricting vehicles for the purpose of creating filtered traffic areas.
43. Some local authorities have used provisions in the LGA1974 to create pedestrian malls as a workaround to close sections of road to motorised traffic.<sup>24</sup> However, this process requires RCAs to follow a special consultative procedure (as prescribed in the LGA2002), that is time-consuming and resource-intensive, with the potential for further delays if anyone challenges this decision via an appeal to the Environment Court. These provisions in the LGA1974 are also being used in ways they were not intended (e.g. declaring small stretches of a road a pedestrian mall merely to filter traffic on that stretch).
44. Local authorities also need to be able to restrict vehicles from passing through parts of streets to deliver public transport and cycling improvements, such as dedicated bus lanes or bike lanes that currently cross intersections.

### **Issue 3: Temporarily closing roads in sufficient circumstances**

45. 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."

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<sup>20</sup> [Auckland City Centre Masterplan: Access for Everyone \(A4E\)](#)

<sup>21</sup> [The Shared Path: Research Paper by Holly Walker. The Helen Clark Foundation, 2020](#)

<sup>22</sup> [Section 334\(1\)\(d\)](#) - Erection of monuments, etc, and provision of facilities on or under roads

<sup>23</sup> [Section 22AB\(1\)\(c\)](#) of the LTA1998 - RCAs may make certain bylaws

<sup>24</sup> [Section 336](#) of the LGA1974 - Pedestrian malls

46. Local authorities can also use the *Transport (Vehicular Traffic Road Closure) Regulations 1965* (the 1965 Regulations) to close streets for events such as carnivals or sporting events, in this case for a period or series of periods of not more than 12 hours each in any consecutive 24 hours.
47. RCAs need to be able to temporarily close roads for a broader range of circumstances than current legislation allows. These include:
  1. 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).
  2. The ability to temporarily close streets on a regular basis – for example, to close streets for weekly markets or regular Open Streets events<sup>25</sup> that would exceed the current limit of 31 closures per year.
48. 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. 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.<sup>26</sup> There are no provisions in existing legislation to enable temporary road closures for this purpose in New Zealand.

#### **Issue 4: Making decisions at appropriate levels**

49. As explained in section 1.2, the current regulatory framework requires local authorities to use a combination of primary legislation and bylaws to modify streets. When doing so, they need to ensure that decision-making accords with the requirements and consultation principles of the *Local Government Act 2002* (LGA2002). Under the LGA2002, local authorities also need to promote the social, economic, environmental, and cultural wellbeing of their communities, taking a sustainable development approach.
50. Local authorities have powers to delegate decision-making under the LGA2002 to a committee, or other subordinate decision-making body, community board, or member or officer of the local authority.<sup>27</sup>
51. In most local authorities, councillors retain powers to decide whether to approve street changes. The exception to this is Auckland Transport, where resolutions are made by a Traffic Control Committee consisting of senior officials.
52. Decision-making processes can often be resource-intensive and time-consuming. 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

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<sup>25</sup> 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 other cities internationally. Some examples are summarised [here](#).

<sup>26</sup> See the [School Streets Initiative](#) in the UK.

<sup>27</sup> [Schedule 7, Part 1, section 32](#) of the LGA2002.

often requires resolution by council/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 relatively infrequently (e.g. once a month) to make decisions. This process also makes it difficult to rapidly iterate and adapt street changes based on public feedback.

53. 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 for street changes. This may be because communities expect decisions to be made by the full Council, and/or because councillors prefer to be closely involved in decision-making.

## **Other issues**

54. In addition to the key issues above, we also identified some less substantial regulatory issues. These issues are inconsistent consultation requirements for establishing pedestrian malls and erecting transport shelters.
55. While these issues may not warrant regulatory changes on their own accord, they should be considered when making any more substantive regulatory changes if there are opportunities to address them.

### *Establishing pedestrian malls*

56. For most street changes, local authorities are guided by the consultation principles in section 82 of the LGA2002, and their significance and engagement policies that the LGA2002 requires them to adopt.<sup>28</sup>
57. The LGA1974 also sets specific consultation requirements in two circumstances: for establishing pedestrian malls and for 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 road expansion.
58. To create a pedestrian mall, local authorities need to use section 336 of the LGA1974, which requires them to use the special consultative procedure. 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.

### *Erecting transport shelters*

59. 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.
60. It is incongruous that local authorities need to follow these specific requirements just for transport shelters and not for installing other public facilities, such as pedestrian

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<sup>28</sup> [Section 76AA](#) of the LGA2002

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.

## 1.4 Objectives for regulatory changes

61. There are two objectives to resolve the key issues outlined above. These are to:
  - i. support local authorities to quickly make widespread street changes that support public transport, active travel, and placemaking
  - ii. encourage these changes to occur by reallocating and managing existing road space.

## Section 2: Deciding on an option to address the policy problem

### 2.1 Criteria

62. Each option has been assessed against the following criteria:
- i. Effectiveness – it supports local authorities to make the required street changes
  - ii. Efficiency – it supports local authorities to make changes in a way that are both cost and time efficient.
  - iii. Flexibility – it enables local authorities to make street changes in a way that works for their communities and to adapt street changes in response to community feedback.

### 2.2 Scope for comparing options

#### Scoping of potential options

63. As noted in section 1.1, the Transport Minister directed MoT to investigate if any changes should be made to the regulatory system to support local authorities in making street changes.
64. ERP also includes an action to “consider regulatory changes to make it simpler and quicker to make street changes.”
65. Central government has various options to accelerate street changes that support public transport, active travel, and placemaking. These include:
1. Empowering local authorities to make street changes that they need to make through the regulatory system.
  2. Guiding local authorities on how to make street changes – including guidance on their legal powers and requirements for making changes.
  3. Incentivising local authorities to make streets changes through funding contributions from central government.
  4. Compelling local authorities to make street changes, for example by linking transport funding with the delivery of targets (e.g. for the staged completion of dedicated bus lanes and bike networks).<sup>29</sup>
66. As noted above, funding options are excluded from this analysis. This is because complementary work is underway to progress the following actions from the ERP:
- incentivise local government to quickly deliver bike/scooter networks, dedicated bus lanes, and walking improvements by reallocating street space, including during street renewals
  - scale up Waka Kotahi’s Innovating Streets for People programme to rapidly trial street changes.

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<sup>29</sup> Local authorities own and manage roads and streets within their jurisdiction, so it would be inappropriate for central government to force local authorities to make street changes.

## Stakeholder engagement

67. Stakeholder engagement to date has included:
1. Interviews with participants from community groups, city and district councils, regional councils, and other transport agencies.
  2. A workshop with approximately 50 representatives from most city and district councils in New Zealand.
  3. A survey of local authorities to capture detailed feedback on regulatory challenges and opportunities.
  4. Additional interviews with Kāinga Ora and Eke Panuku.
  5. A local government advisory group was established by MoT and Waka Kotahi in February 2022, which includes representatives from six city and district councils. This group has met monthly since February 2022 and is providing ongoing feedback on potential changes. It includes representatives from Auckland Transport, Hamilton City Council, Gisborne District Council, Palmerston North City Council, and Wellington City Council.
68. MoT is planning to seek wider public feedback during formal consultation.

## 2.3 Options considered

69. To address each of the key issues identified in section 1.2, we considered the following options:
- i. Regulatory options – to support local authorities to make street changes that they need to make.
  - ii. Guidance options – to clarify the powers that local authorities have to make street changes and recommended processes.
70. These options are compared to the counterfactual option of not making any changes.

## Counterfactual option

71. As outlined in section 1.1, widespread street changes are needed to deliver on strategic transport priorities for emissions reductions, safety, and providing people with better travel options.
72. There is an urgent need to accelerate street changes to improve options for people travelling by public transport, bike/scooter, and foot to meet the transport target in the ERP to “reduce VKT (vehicle kilometres travelled) by cars and light vehicles by 20 percent by 2035 through improved urban form and providing better travel options, particularly in our largest cities.” As highlighted in the ERP, the Government is intending to incentivise local government to quickly deliver bike/scooter networks, dedicated bus lanes, and walking improvements by reallocating street space, including during street renewals.
73. In the counterfactual scenario, local authorities cannot rapidly make all the street changes that they need to make to support public transport, active travel, and placemaking. Relative to other options, this will hinder them from making necessary street changes, and reduce the ability to meet New Zealand’s emissions reduction targets.

74. Investments to boost travel by foot, bike, and public transport will also not be optimally spent. For example, local authorities may seek to improve travel by public transport and active modes primarily by widening streets, which is much more expensive than making better use of existing infrastructure by reallocating road space. As another example, local government will miss opportunities to boost the capacity, reliability, and frequency of public transport services by creating more dedicated/priority bus lanes.

### **Options for Issue 1: Piloting/trialling street changes**

75. In the United Kingdom, a specific regulatory tool called Experimental Traffic Orders (ETO) has been created to empower local authorities to effectively trial street changes.<sup>30</sup> 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 experimental order, suggested improvements and objections must be considered and changes can be made. Within 18 months, a decision must be made about whether the order becomes permanent.
76. We explored the possibility of introducing a tool similar to ETOs during our engagement with local authorities. They indicated that they would be very likely to use this tool if it was available.
77. We also considered the option of providing local authorities with more guidance on how to pilot/trial street changes.

### **Options for Issue 2: Filtering traffic**

78. Government could make legislative changes to provide local authorities with powers to effectively filter traffic. This would involve enabling local authorities to:
- limit through-movements of vehicles and filter traffic via the use of modal filters, or by identifying a class of vehicle that is not permitted to travel through that space
  - install any object, provided it is safe, for the purposes of filtering traffic.
79. Section 3 provides more details on how this could be done through the regulatory system.
80. We also considered if there were any options to provide local authorities with guidance to address this issue.

### **Options for Issue 3: Temporarily closing roads in sufficient circumstances**

81. Government could amend existing legislation and/or establish new legislation to enable local authorities to temporarily restrict vehicles from accessing roads, or parts of roads, in the following additional circumstances:
1. to pilot street changes

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<sup>30</sup> Examples of how ETOs are used in the United Kingdom are outlined in [The Shared Path: Research Paper by Holly Walker. The Helen Clark Foundation, 2020](#)



2. to temporarily close parts of streets around schools during pick up and drop off times to improve safety and encourage healthy active travel, if this is supported by the local school
  3. to temporarily close streets for community-led events such as Play Streets
  4. to temporarily close streets for regular public functions or markets that would exceed the current limit of 31 days per year.
82. We also considered if there were any options to provide local authorities with guidance to address the challenges they face in temporarily closing streets for the purposes outlined above.

### Options for Issue 4: Making decisions at appropriate levels

83. Government could establish specific decision-making requirements for specified kinds of street changes, to encourage or require local authorities to make decisions more quickly at appropriate levels.
84. This would require substantive changes beyond transport legislation, as the LGA2002 establishes that every decision made by a local authority must be made in accordance with provisions in that legislation.<sup>31</sup>
85. We also considered providing guidance to local authorities on what they could consider when making decisions about street changes, including appropriate levels for decision-making.

## 2.4 Options compared to the counterfactual

86. Table 3 summarises how each option ranks across criteria, compared to the counterfactual option of doing nothing.

Key for qualitative judgements:	
++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

**Table 3: Options assessment**

<sup>31</sup> [Section 76\(1\)](#) of the LGA2002 establishes that every decision made by a local authority must be made in accordance with such of the provisions of [sections 77](#), [78](#), [80](#), [81](#), and [82](#) as are applicable.

	<b>Issue 1:</b> Piloting street changes	<b>Issue 2:</b> Creating filtered traffic areas	<b>Issue 3:</b> Temporarily closing roads	<b>Issue 4:</b> Delegating decision-making where appropriate
<b>Empower</b> local authorities to make and enforce street changes that they need to make through the regulatory system	<p><b>Effective: +</b></p> <p><b>Efficient: ++</b></p> <p><b>Flexibility: ++</b></p>	<p><b>Effective: +</b></p> <p><b>Efficient: +</b></p> <p><b>Flexibility: 0</b></p>	<p><b>Effective: ++</b></p> <p><b>Efficient: +</b></p> <p><b>Flexibility: 0</b></p>	<p>Local authorities already have powers to delegate decisions under the LGA2002</p> <p><b>Effective: 0</b></p> <p><b>Efficient: 0</b></p> <p><b>Flexibility: 0</b></p>
<b>Guide</b> local authorities on how to progress street changes	<p>Central government has already provided guidance through Innovating Streets for People.</p> <p><b>Effective: 0</b></p> <p><b>Efficient: 0</b></p> <p><b>Flexibility: 0</b></p>	<p>Guidance would be ineffective without addressing the regulatory barriers to creating filtered traffic areas. Local authorities are unable to create their own bylaws to address these limitations.</p> <p><b>Effective: 0</b></p> <p><b>Efficient: 0</b></p> <p><b>Flexibility: 0</b></p>	<p>Central government has already provided guidance on temporarily closing streets for 'Play Streets'.</p> <p>Additional guidance could be provided on where provisions for temporarily closing roads exist in various parts of legislation.</p> <p><b>Effective: 0</b></p> <p><b>Efficient: +</b></p> <p><b>Flexibility: 0</b></p>	<p>Central government could provide local authorities with guidance on appropriate levels for decision making (although local government is not accountable to central government for operational decision-making)</p> <p><b>Effective: +</b></p> <p><b>Efficient: +</b></p> <p><b>Flexibility: 0</b></p>

87. Compared to the status quo scenario, most options would not impact on flexibility. Local authorities would still be able to make street changes in a way that works for their communities and to adapt street changes in response to community feedback. This is because local authorities would still need to apply the principles of the LGA2002, to promote the social, economic, environmental, and cultural wellbeing of their communities, taking a sustainable development approach. For Option 1, a new regulatory tool for piloting street changes would improve flexibility. This is because local authorities could more rapidly refine street changes in response to public feedback.

## 2.5 Preferred approach

88. Based on this analysis, we recommend making regulatory changes to:
- create a new legislative tool to pilot/trial street changes
  - enable local authorities to create filtered traffic areas
  - broaden the circumstances that local authorities are permitted to temporarily close roads.
89. Section 3 outlines the recommended approach for implementing these regulatory changes.
90. We also recommend providing guidance to local authorities on:
- how these regulatory changes will support them to make street changes
  - making decisions at appropriate levels.

### Effect of impacts

91. Overall, we would expect these changes to directly deliver a more effective and efficient regulatory system that reduces costs for local authorities when making street changes.
92. This will support local authorities in making street changes that deliver ongoing benefits for safety, health, equity, and emissions reductions.
93. More widespread use of street pilots/trial will also contribute to more effective community engagement.

### Distributional impacts

94. These regulatory changes will deliver positive impacts for local authorities, by enabling them to make street changes more efficiently and effectively. This is likely to reduce their operational costs for making various types of street changes.
95. It will particularly benefit smaller local authorities, who do not have the same resources that large local authorities have to develop and update their own bylaws for making street changes that they are not empowered to make by existing legislation created by central government.
96. These regulatory changes will not have a direct impact on communities and businesses, but they will have an indirect impact by supporting more street changes (in combination with actions in the ERP to incentivise street changes).
97. Street changes that support public transport, active travel, and placemaking will make our transport system more inclusive by providing more people with a wider range of safe and healthy transport options. Spaces that encourage active travel and public transport use tend to be safer and more welcoming for people of different ethnicities, ages, genders, and abilities.
98. While street changes that involve reallocating street space (e.g. repurposing on-street car parking spaces to create bus lanes and bike/scooter networks) can benefit many people, some people and businesses who currently benefit from existing street layouts could be disadvantaged by some street changes. The provision and removal of on-street car parking is a particularly contentious issue in some communities, especially if

it reduces the ability of people to freely park their vehicles outside their homes, host visitors or service vehicles, or for business owners/customers to park directly outside their premises. These disadvantages also need to be weighed against other benefits that they may enjoy (e.g. an increase in foot traffic near businesses, or better access via a range of transport modes).

### **Stakeholder support and consultation**

99. As noted in section 2.2, we have previously engaged with local authorities on potential regulatory changes through interviews, workshops, a survey, and through an advisory group. There is very strong support from local authorities to proceed with regulatory changes to make it simpler and quicker for them to make street changes. Views on specific proposed changes will be canvassed during formal consultation.
100. We discussed the possibility of including a regulatory mechanism to pilot/trial street changes (similar to ETO model in the United Kingdom) with local authorities during this process. There is broad and strong support for this, and officials from local authorities have indicated that they would be very likely to use a tool like this if they were able to.
101. Broader public views on these proposed regulatory changes will be canvassed and heard during formal consultation. We will use this consultation to identify any opposition to the proposed changes, and any suggestions for improvements. These will be integrated into the final RIS.

## **2.6 Marginal costs and benefits**

102. These regulatory changes would not incur additional costs for local authorities, other than the time required to become familiar with the changes. These changes are also expected to deliver cost savings for local authorities, for the following reasons:
  1. Street pilots can use relatively low-cost materials and road markings to trial changes before deciding whether to make changes permanent. Refinements can also be rapidly made without needing to approve additional traffic resolutions (which require more time and resourcing). The proposed changes will make it easier for local authorities to pilot street changes.
  2. The proposals will make legislation more accessible and provide local authorities with greater legal certainty for making many types of street changes. This will reduce legal uncertainty, and the need to seek legal advice (which incurs costs).
  3. The proposals will avoid the need for local authorities to use complex and expensive work-arounds to make some street changes (e.g. declaring pedestrian malls for small stretches of road because they cannot filter traffic through other mechanisms).
  4. The proposals to make consultation requirements for pedestrian malls and transport shelters consistent with other types of street changes will reduce administrative burdens and inefficiencies.
103. A detailed cost-benefit analysis is not necessary because the implementation costs are very low and the benefits will significantly outweigh these costs.

## Section 3: Delivering an option

### 3.1 How the new arrangements will be implemented

104. Regulatory changes could be delivered through a combination of changes to existing legislation, and through a new land transport rule (a new rule).
105. Appendix 2 summarises which legislative changes would be necessary for implementation.

*Most of the changes would be implemented via a new rule*

106. The Transport Minister has the power to make ordinary rules (land transport rules) to meet one of more purposes under section 152 of the LTA1998. These purposes include improving access and mobility, protecting and promoting public health, ensuring environmental sustainability, and assisting land transport safety. A new rule could clearly contribute to these outcomes.
107. Section 157(1)(a) of the LTA1998 establishes that a rule may “regulate the use of roads, and empower RCAs to control, restrict, and prohibit traffic, and to close roads in specified circumstances or on specified occasions, in accordance with the rules.”
108. The new rule could include powers and requirements for local authorities to:
  1. pilot street changes (Issue 1)
  2. filter traffic (Issue 2)
  3. temporarily close parts of roads as part of pilots (Issue 3)
  4. temporarily close parts of roads to hold Play Streets (Issue 3)
  5. temporarily close parts of roads for School Streets (Issue 3).

*Changes to the LGA1974 would also be necessary*

109. As noted in section 1.3, 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).
110. While the new rule can provide local authorities with powers to filter traffic, and to use objects such as bollards to do this, some local authorities may be hesitant to apply these powers while section 334(1)(d) of the LGA1974 exists. Local authorities would still need to establish an opinion on whether traffic filters “unduly” impede vehicular traffic. Their opinion may also be subject to legal challenges. For this reason, we recommend amending section 334(1)(d) of the LGA1974 to clearly establish that local authorities can limit vehicles from entering or using a road, or part of a road, to limit through movements of vehicles.
111. Substantive changes would also be needed to other sections of the LGA1974. The full set of proposed changes to the LGA1974 are to:
  - amend section 334(1)(d) to ensure local authorities have a strong legal foundation to filter traffic

- amend section 11(e) in Schedule 10 to enable local authorities to temporarily close streets for regular public events and markets
- amend section 336 to remove the specific consultation requirements for declaring pedestrian malls and the right of appeal to the Environment Court
- remove the consultation requirements for creating transport shelters in section 339.

*There is also an opportunity to make the legislation more accessible*

112. If a new rule is created and Cabinet agrees to proceed with proposed changes to the LGA1974, some sections of the LGA1974 could be updated and moved to the new rule.
113. In particular, the sections covering pedestrian malls and street closures for events and markets would be better placed in the new rule. This is because they are related to other proposed provisions in the new rule that will support active travel and placemaking.
114. We also propose revoking the *Transport (Vehicular Traffic Road Closure) Regulations 1965* (the 1965 Regulations) and updating, or shifting, these provisions to the new rule. This regulation overlaps with the street closure provisions for events in the LGA1974, and local authorities find it confusing to have similar powers spread across different legislation. Shifting all road closure powers for events to one piece of legislation (i.e. the new rule) would make the legislation easier for local authorities to navigate.
115. The 1965 Regulations could be revoked by Cabinet agreement, without the need for any changes to primary legislation.

*The proposed changes would be implemented via a three-step process*

116. A new rule could be progressed more quickly than changes to the LGA1974, as the rule would not require changes to primary legislation.
117. Implementation of the Reshaping Streets package would occur in three steps:
1. Implement the new rule.
  2. Amend the LGA1974, by shifting and amending transport content, and repealing sections that are intended to be included in the new rule (i.e. for pedestrian malls and events).
  3. Revise and update the new rule, with additional sections added (i.e. for pedestrian malls and events).
118. Implementation of steps two and three would occur simultaneously, so that local authorities would not lose any of their necessary existing powers when some sections of the LGA1974 are transferred to the new rule. The rule would be revised after changes to the LGA1974 are enacted, but before these changes commence.

### **Responsibilities for implementation**

119. Te Manatū Waka the Ministry of Transport (MoT) will lead the communication and consultation on the proposed changes. If Cabinet agrees to proceed with any changes to primary legislation following consultation, MoT will lead this process.

120. Waka Kotahi NZ Transport Agency (Waka Kotahi) will lead the analysis of public submissions on proposed changes following consultation. If Cabinet agrees to the Transport Minister making a new rule following consultation, Waka Kotahi will lead the implementation of the new rule.
121. The LGA1974 is administered by the Department of Internal Affairs (DIA). Any changes to the LGA1974 would therefore require DIA's support and the Minister of Local Government's agreement. The Ministry will work closely with DIA to confirm the appropriate regulatory mechanisms for making the proposed changes to the LGA1974, if Ministers agree to these proposals.
122. To implement any changes successfully, it will be vital to provide clear guidance to local authorities on how to apply the regulatory changes, including the new rule. There will be three key opportunities to engage with local authorities and raise awareness on what is being proposed: during formal consultation on the proposed package of changes, before a new rule is implemented, and before any changes to the LGA1974 commence. Waka Kotahi will work with MoT and DIA to develop an effective engagement plan, and associated guidance documents, to ensure that local authorities understand how the proposed changes will affect them.

### **Financial considerations**

123. There are no significant financial considerations for local authorities associated with implementation, other than the time required to familiarise themselves with the new system.

### **Timing for implementation**

124. There is an urgent need for the proposed changes, as they are linked with other actions in the ERP to quickly deliver bike/scooter networks, dedicated bus lanes, and walking improvements, and to scale up Waka Kotahi's Innovating Streets for People programme (as highlighted in section 1.1).
125. It is anticipated the new rule will be introduced in late 2022, followed by the enactment of amendments to the LGA1974 after an amendment Bill enters Parliament in 2023.

## Appendix 1: The current regulatory system

Table 1 Regulatory instruments and tools used by local authorities

Primary legislation	
Local Government Act 1974 (LGA1974)	<ul style="list-style-type: none"> <li>Includes powers for creating <a href="#">facilities on roads</a>, <a href="#">forming or upgrading footpaths</a>, establishing <a href="#">pedestrian malls</a>, and <a href="#">transport shelters</a>.</li> <li><a href="#">Schedule 10</a> includes powers to temporarily prohibit/restrict traffic from using any road or part of a road in specified circumstances.</li> </ul>
Local Government Act 2002 (LGA2002)	<ul style="list-style-type: none"> <li>Sets consultation<sup>32</sup> and <a href="#">decision-making</a> requirements for local authorities to follow when making street changes.</li> </ul>
Land Transport Act 1998 (LTA1998)	<ul style="list-style-type: none"> <li><a href="#">Section 22AB</a> empowers local authorities to make bylaws for prescribed purposes.</li> </ul>
Secondary legislation – rules and regulations	
Land Transport Rules	<ul style="list-style-type: none"> <li>The Transport Minister can make rules for various purposes under the LTA1998.<sup>33</sup></li> <li>The <a href="#">Traffic Control Devices Rule 2004</a> (TCD Rule) specifies requirements for the design, construction, installation, operation and maintenance of traffic control devices such as street markings and signs (e.g. for pedestrian crossings, bus lanes, and bike lanes).</li> </ul>
Regulations	<ul style="list-style-type: none"> <li><a href="#">The Transport (Vehicular Traffic Road Closure) Regulations 1965</a> includes powers to temporarily close roads in specified circumstances, such as events.</li> </ul>
Secondary legislation – bylaws created by local authorities	
Bylaws for regulating road use, including parking	<ul style="list-style-type: none"> <li>As noted above, local authorities may make bylaws for prescribed purposes under <a href="#">section 22AB</a> of the LTA1998.</li> <li>Local authorities need to follow the consultation requirements for creating bylaws in the LGA2002 and ensure that decision-making accords with the requirements and consultation principles of the LGA2002.</li> </ul>
Policies and guidelines	
Documents created by central government	<p>Key documents include:</p> <ul style="list-style-type: none"> <li><a href="#">The code of practice for temporary traffic management</a> provides guidelines for managing traffic in temporary circumstances.</li> <li><a href="#">Play Streets Guidelines</a> provide guidance on how to temporarily restrict traffic on low-risk streets for play activities.</li> <li><a href="#">The Aotearoa Urban Street Planning and Design Guide</a> brings together good urban design principles and mode specific guides, pedestrian planning guidelines, cycling network guidance, and public transport design guidelines.</li> </ul>
Documents created by local authorities	<p>Key documents include:</p> <ul style="list-style-type: none"> <li><a href="#">Significance and engagement policies</a> that guide consultation and decision-making.<sup>34</sup></li> <li>Frameworks to guide decision-making, such as parking policies.</li> </ul>

<sup>32</sup> These includes principles of consultation ([section 82](#)), the special consultative procedure ([section 83](#)) and consultation requirements when making or amending bylaws ([section 156](#))

<sup>33</sup> [Section 152](#) of the *Land Transport Act 1998* establishes the power of the Ministry of Transport to make ordinary rules (“Land Transport Rules”) for various purposes. [Section 157\(1\)\(a\)](#) gives the Minister an explicit power to create a rule that may “regulate the use of roads, and empower RCAs to control, restrict, and prohibit traffic, and to close roads in specified circumstances or on specified occasions, in accordance with the rules.”

<sup>34</sup> Local authorities are required to adopt these under [section 76AA](#) of the LGA2002



**Table 2 Regulatory instruments that local authorities use for making specific types of street changes**

Type of street change/treatment	Regulatory instrument
Bus lanes	<ul style="list-style-type: none"> <li>• Bylaw and resolutions: needed to define part of a road as a Special Vehicle Lane (SVL).</li> <li>• TCD Rule: sets requirements for SVLs.</li> <li>• Consultation: guided by LGA2002.</li> </ul>
Bike/scooter lanes	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 319</a> empowers local authorities to determine what part of a road shall be a cycle track.</li> <li>• LGA1974: <a href="#">section 332</a> empowers local authorities to form a cycle track on a road, and to make bylaws to control use of that cycle track.</li> <li>• Bylaw and resolutions: needed for controlling the use of bike lanes.</li> <li>• TCD Rule: sets requirements for SVLs.</li> <li>• Consultation: guided by LGA2002.</li> </ul>
Footpath improvements	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 319</a> empowers local authorities to determine what part of a road shall be a footpath.</li> <li>• LGA1974: section 331 allows local authorities to form or upgrade footpaths of any road.</li> <li>• Consultation: guided by LGA2002.</li> </ul>
Pedestrian crossings	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 334(1)(d)</a> establishes powers to construct facilities on the road for safety, health, or convenience of the public, or for the control of traffic. Local authorities can use this provision to install pedestrian crossings.</li> <li>• TCD Rule: establishes requirements for pavement markings, signals and signs.</li> <li>• Consultation: guided by LGA2002.</li> </ul>
Vehicle speed calming measures (e.g. chicanes, speed humps)	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 334(1)(d)</a> establishes powers to construct facilities on the road for safety, health, or convenience of the public, or for the control of traffic, so long as this will “will not unduly impede vehicular traffic.”</li> <li>• TCD Rule: requires local authorities to ensure all TCDs installed on the road are safe, effective and appropriate.</li> </ul>
Vehicle filtering measures (e.g. bollards to restrict vehicles from using parts of streets)	<ul style="list-style-type: none"> <li>• There is no clear regulatory mechanism to install vehicle/traffic filters.</li> <li>• LGA1974: <a href="#">section 334(1)(d)</a> establishes powers to construct facilities on the road for the control of traffic, so long as this will not, in the opinion of the council “unduly impede vehicular traffic.” Measures such as bollards are intended to impede some vehicles from accessing streets.</li> <li>• Bylaws and resolutions: section 22AB(1)(c) of the LTA1998 enables local authorities to make a bylaw to prohibit or restrict some vehicles from using roads. However, they can only do so if “by reason of its size or nature or the nature of the goods carried, is unsuitable for use on any road or roads.” They cannot restrict vehicles for purposes, such as creating filtered traffic streets/areas.</li> </ul>
Low-traffic streets and neighbourhoods	<ul style="list-style-type: none"> <li>• There is no clear regulatory mechanism to create low-traffic areas.</li> <li>• This would require vehicle filtering measures to be installed (see limitations noted above), or for parts of roads to be closed to vehicles.</li> </ul>

Pedestrian malls	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 336</a> sets requirements for establishing pedestrian malls.</li> <li>• Consultation: <a href="#">section 336</a> of the LGA1974 sets consultation requirements, including a requirement to establish the special consultative procedure in the LGA2002.</li> </ul>
Shared use zones <sup>35</sup>	<ul style="list-style-type: none"> <li>• Bylaw and resolutions: needed to classify a space as a shared zone.</li> <li>• Consultation: guided by LGA2002.</li> </ul>
Bus shelters	<ul style="list-style-type: none"> <li>• LGA1974: <a href="#">section 339</a> of the LGA1974 provides powers to erect transport shelters.</li> <li>• Consultation: <a href="#">section 339</a> of the LGA1974 sets notification requirements.</li> </ul>
Community events	<ul style="list-style-type: none"> <li>• LGA1974: schedule 10 (clause 11) empowers local authorities to close any road temporarily for events (up to 31 days in aggregate per year) provided that closure would not impede traffic unreasonably.</li> <li>• The 1965 Regulations: empower local authorities to close any road for a period or series of periods of not more than 12 hours each in any consecutive 24 hour-periods.</li> <li>• Consultation: notification requirements are set in the LGA1974 and the 1965 Regulations.</li> </ul>
Play Streets (i.e. short, resident-led road closures at designated times/days)	<ul style="list-style-type: none"> <li>• There is no clear regulatory mechanism to provide these.</li> <li>• Waka Kotahi's <i>Guidelines for restricting traffic for Play Street events</i> provide guidance on working within the current regulatory system to provide these, without interpreting these events as temporary road closures.</li> </ul>

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<sup>35</sup> *The Road User Rule* defines a shared zone as a length of roadway intended to be used by pedestrians and vehicles.

## Appendix 2: Overview of proposed regulatory changes

	Piloting street changes	Filtering traffic	Temporarily closing roads	Other changes
<b>New rule</b>	<p>Enable local authorities to use a new legislative tool to pilot street changes.</p> <p>The pilot could last up to two years. The trial is used as a form of engagement and consultation, to collect public feedback based on direct experience.</p>	<p>Enable local authorities to filter traffic to create low/filtered traffic areas, and to install traffic control devices (e.g. bollards) to filter traffic.</p>	<p>Enable local authorities to authorise temporary street closures for:</p> <ul style="list-style-type: none"> <li>- piloting street changes</li> <li>- Play Streets</li> <li>- School Streets</li> </ul>	<p>Enable local authorities to choose what decision-making mechanism/process they use when deciding whether to install, operate or remove a traffic control device.</p>
<b>LGA1974 changes</b>	<p>Amend or repeal the section 11(b) in Schedule 10, which enables local authorities to temporarily prohibit traffic when “experimental diversions” are required. This is to clarify that this provision should not be used by local authorities to make temporary “experimental” street changes when the new rule provides local authorities with a mechanism to pilot changes. This will remove legal ambiguity for local authorities. We will consult on whether to amend or repeal this section.</p>	<p>Amend section 334(1)(d) to remove the reference to “unduly impede vehicular traffic”, to clearly establish that local authorities can restrict vehicles from entering or using a road to limit through movements and/or speed of vehicles.</p>	<p>Amend section 11(e) in Schedule 10 to remove the 31-day annual limit on temporarily closing roads for events or markets.</p> <p>Section 11(e) could be repealed from the LGA1974, with equivalent powers shifted to an updated version of the new rule, so that all road closure powers relevant to events are in one piece of legislation.</p>	<p>Remove the specific consultation requirements for pedestrian malls and the right of appeal to the Environment Court in section 336 of the LGA1974. This section could be repealed from the LGA1974, with equivalent powers shifted to an updated version of the new rule.</p> <p>Remove the consultation requirements for erecting transport shelters in section 339 of the LGA1974.</p>
<b>Other legislation</b>	-	-	<p>Revoke the 1965 Regulations and update/shift equivalent powers to the new rule.</p>	<p>Enable local authorities to establish temporary speed limits as part of pilots, through an amendment to the <i>Land Transport Rule: Setting of Speed Limits 2022</i>.</p>