



## SUBMISSION

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To: Waka Kotahi NZ Transport Agency

Submission: Reshaping Streets regulatory changes

Date: 16 September 2022

Sent to: [reshaping.streets@nzta.govt.nz](mailto:reshaping.streets@nzta.govt.nz)

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# Ia Ara Aotearoa Transporting New Zealand submission to Waka Kotahi: Reshaping Streets

## Introduction

- 1 Ia Ara Aotearoa Transporting New Zealand (Transporting New Zealand) welcomes the opportunity to make a submission on Reshaping Streets. As a national association representing road freight operators, Transporting New Zealand's membership will be materially affected by the proposed regulatory changes.
- 2 Transporting New Zealand is concerned that the proposals (particularly piloting street changes and traffic filtering) will allow road controlling authorities (RCAs) to unduly impede vehicle traffic. This appears to be inconsistent with the Government Policy Statement of Land Transport 2021/22 (GPS21) strategic priority of *Improving Freight Connections*. We are also concerned that the proposals will have unintended negative consequences relating to the *Safety* and *Climate Change* priorities.
- 3 While Transporting New Zealand strongly disagrees with the majority of the proposals, we have also suggested some pragmatic amendments in the event that the changes go ahead.

## Transporting New Zealand's overall position

- 4 Our submission provides specific feedback on the list of proposals in the consultation document below. However, to broadly outline Transporting New Zealand's position to the proposed regulatory changes:
  - 4.1. Roads are the lifeblood of New Zealand's economy, with 93% of freight being carried by road. Proposals like Reshaping Streets that impede vehicle traffic and prioritise alternative transport need to expressly consider the needs of trucks and their operators, alongside GPS21's strategic priority of *Improving Freight Connections*. After all, heavy vehicle operators pay the majority of road user charges that fund and maintain our roading system.
  - 4.2. Urban streets play an essential role for road freight, particularly 'last kilometre' delivery to businesses, retailers and consumers. Attractive, vibrant streets and communities need to be well supplied. Despite this, road freight accessibility and impacts have not been referenced in the consultation document or the Preliminary Regulatory Impact Statement's (PRIS) "Distributional Impacts" section.
  - 4.3. Impeding vehicle traffic through mechanisms like vehicle restrictions, traffic calming and modal filters contributes to congestion, which can increase idling, impede fuel efficient driving and increase vehicle emissions. It should be mandatory for emission impacts to be assessed as part of any roadway changes.
  - 4.4. We are concerned that RCAs currently lack the funding and expertise to make evidence-based assessments around issues like emissions, traffic control devices and speed limit impacts.
  - 4.5. The need for such rapid and substantial regulatory changes appears to be overstated:

- 4.5.1. The PRIS cites a 2021 survey of local authorities about regulatory issues. This targeted survey only recorded a 39% response rate<sup>1</sup>, which may indicate selection bias in the results supporting change.
  - 4.5.2. The PRIS Options assessment, comparing the favoured *Empower* option against a more moderate *Guide* approach does not acknowledge that ‘Streets for People’ and ‘Play Streets’ guidance has been introduced relatively recently. It seems reasonable to grant RCAs more time to implement this guidance within the existing regulatory framework before embarking on substantial reform.
- 4.6. Transporting New Zealand prefers the *Guide* option to the more radical *Empower* approach (PRIS page 18), particularly for proposals 1 and 2. This is reflected in our responses below.

## **Transporting New Zealand’s response to particular proposals**

### ***A new approach for piloting street changes***

*1A Provide RCAs with new powers and requirements to install pilots, and set requirements for how to install them.*

*Do you support RCAs being able to do this?*

5 Transporting New Zealand strongly disagrees with this proposal.

*If there is anything that you think RCAs should specifically consider before installing a pilot?*

6 If this proposal proceeds, Transporting New Zealand proposes that:

- 6.1. The notification period at Rule 4.2(a) of the Land Transport Rule Street Layouts 2022 (the Rule) be increased from two weeks to at least four weeks. This will allow more time for road freight operators (including urban delivery services) to make necessary adjustment to their routes and notify their clients of any associated delays and additional costs.
- 6.2. The definition of “specified organisations” at Rule 1.4 be expanded to expressly include industry associations and advocacy groups. Alternatively, that Waka Kotahi NZ Transport Agency (Waka Kotahi) or Ministry of Transport provide guidance to RCAs that industry associations and advocacy groups are “public organisations” who would be affected by the pilot. This will ensure that notifications reach road freight operators.
- 6.3. That Rule 2.1 be amended, making it mandatory for RCAs to expressly consider the impact the pilot may have on:
  - 6.3.1. freight movement; and
  - 6.3.2. the operation of local business and services.

*1B Enable pilots to be used as a form of consultation, with feedback collected during the pilot used to consider whether to make street changes permanent.*

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<sup>1</sup> Preliminary Regulatory Impact Statement: Reshaping Streets, at [29].

*Do you support pilots being used as a way to publicly consult with communities?*

- 7 Transporting New Zealand strongly disagrees with this proposal.
- 8 Transporting New Zealand considers that preliminary or front-loaded consultation is an essential aspect of any good-faith engagement process. Allowing communities to provide feedback prior to a decision being made is also an important accountability mechanism.
- 9 Waka Kotahi have frankly admitted that front-loaded consultation is frequently an obstacle to changing the use of roadways, as fierce opposition from those adversely affected can stop proposals from proceeding. In contrast, pilots will enable RCAs to proceed with unpopular, experimental and technocratic proposals, relying on communities becoming numbed to any negative impacts during the pilot period.
- 10 Transporting New Zealand considers that the pilot proposal doesn't give communities and RCAs enough credit for the successful front-loaded consultation processes many currently complete. Reviewing the number of submissions received on closed council consultations reveals that roading and transportation issues attract significant community engagement.<sup>2</sup>

*1C Enable pilots to be installed for up to two years.*

- 11 Notwithstanding our general opposition to pilots, Transporting New Zealand considers that two years is significantly too long.
- 12 Transporting New Zealand considers that a two year pilot is effectively a semi-permanent roadway change. A pilot of that length could have significantly prejudicial effects on a community without providing adequate accountability mechanisms. There may also be significant cost to reverting to the pre-pilot roadway use, as communities pragmatically 'make-do' with unpopular changes.
- 13 Removing parking, introducing modal filters and restricting private and commercial vehicles for two years could force local businesses to close, severely impact freight mobility and impede accessibility for those who cannot access alternative modes of transport. It is also unfair to expect community members to effectively weigh the functionality of the original road use against two entire years of piloted change.
- 14 If this proposal proceeds, Transporting New Zealand would propose:
  - 14.1. The Rule provide for an initial pilot of up to six months, followed by a traditional RCA consultation process.
  - 14.2. If this consultation supported the pilot, a pilot could be continued for a further six months, followed by a closing consultation and final RCA decision.

*1E Allow RCAs to lower the speed limit to support a pilot, by applying a 'pilot speed limit'.*

- 15 Transporting New Zealand disagrees with this proposal.
- 16 Transporting New Zealand supports evidence-based speed policies that contribute to the credibility of speed management. RCAs do not have sufficient resourcing and engineering expertise to complete adequate speed limit analyses. This could result in

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<sup>2</sup> This is readily apparent from reviewing Christchurch City Council, Wellington City Council and Auckland Council's closed transport and infrastructure consultations, publicly available online.

overly precautionary speed limit reduction, and a patchwork of seemingly arbitrary speed limits that create compliance issues and undermine public buy-in.

- 17 Our preference is that RCAs reduce their focus and reliance on posting lower speed limits and use a good consistent traffic engineering design of the environment that leads drivers to naturally choose to drive at an appropriate speed, a concept previously referred to as “self-explaining roads”.

*1F Update rules for trialling TCDs, so that RCAs can trial TCDs as part of pilots and choose how they notify people about TCD trials (with at least two weeks notice).*

- 18 Transporting New Zealand strongly disagrees with this change, in line with our general opposition to the piloting street changes proposal.

- 19 As stated at paragraph 16 above, many RCAs do not have sufficient resourcing and engineering expertise to undertake adequate assessment of TCDs. Waka Kotahi have frankly admitted that other international jurisdictions have signs that New Zealand could replicate therefore our preference is that rather than invent and trial new TCDs, as much as possible RCAs adopt those that are already in use. To do otherwise risks inconsistencies in how messages are being conveyed to road users and subsequently that leads to unnecessary confusion and driver behaviour compliance issues.

- 20 If this proposal proceeds, Transporting New Zealand proposes that:

- 20.1. The notification period be increased from two weeks to at least four weeks. This will allow sufficient time for road freight operators (including urban delivery services) to make necessary adjustment to their routes and notify their clients of any associated delays and additional costs.
- 20.2. Waka Kotahi or Ministry of Transport provide guidance to RCAs that industry associations and advocacy groups are “public organisations” who would be affected by the pilot. This will ensure that the notification reaches road freight operators.
- 20.3. Rule 4.3 be amended to include an obligation for RCAs to assess the emissions impact of the pilot (including any TCDs) on vehicle movements (including increased braking, acceleration, and idling).

### ***Powers to filter traffic***

*2A Enable RCAs to install modal filters if the objects they use are safe, and people and deliveries can still access the places they need to get to.*

- 21 Transporting New Zealand strongly disagrees with this change, in line with our general opposition to the piloting street changes proposal.

- 22 If this proposal proceeds, Transporting New Zealand proposes that:

- 22.1. That the Rule be amended to include an express obligation on RCAs to ensure that people and deliveries can still access the places they need to get to.
- 22.2. That Rule 4.3 be amended to include an obligation for RCAs to assess the emissions impact of the pilot (including any modal filters) on vehicle movements (including increased idling while deliveries are completed).

*2B Ensure legislation provides clear powers to filter traffic, by removing the requirement in the LGA1974 that facilities built on roads cannot, in the opinion of a council, 'unduly impede vehicular traffic entering or using the road'.*

23 Transporting New Zealand strongly disagrees with this proposal, that we consider is the most fundamental change proposed by Reshaping Streets.

24 Empowering New Zealand's 78 local councils to introduce a patchwork of experimental long-term pilots that **unduly impede** vehicle traffic is not a coherent way to develop a sustainable roading network.

25 Transporting New Zealand considers that this legislative provision acts as a vital check against congestion and dysfunction. Particularly as the permitted purposes at Rule 2.1(3) are so strictly focused on alternative transport. Transporting New Zealand considers that street layout changes are more likely to be successful and enduring when they adequately weigh competing considerations and priorities.

26 We also refer to the points raised in our overall position statement at paragraph four.

*2C Enable RCAs to restrict or prohibit the use of some or all motor vehicles on specified roadways to support public transport use, active travel, health and safety, emissions reductions, and/or to create public spaces that promote community well-being.*

27 Transporting New Zealand strongly disagrees with this proposal.

*2D Provide RCAs with an explicit power to install TCDs.*

28 Transporting New Zealand strongly disagrees with this change, referring to our response to proposal 1F.

### **Schools Streets**

*3 Establish powers and requirements for RCAs to create School Streets in partnership with local schools.*

29 Transporting New Zealand disagrees with this change as currently drafted, although we support particular elements of the proposal.

30 Transporting New Zealand is committed to improving road safety around schools. We are open to allowing RCAs to install signs, movable gates, school speed limits, speed cameras and other safety features around schools. We also support targeted enforcement by Police around schools.

31 We do not support School Streets being closed to vehicles (Rule 2.2(3)). Vehicle pick-ups and drop-offs will still need to occur, and Transporting New Zealand would prefer these happen within dedicated and well managed areas within the school (eg. Kapiti College) or where that is not reasonably practicable then directly outside schools. This ensures there are safety features and supervision from school staff, students and caregivers.

32 We encourage Waka Kotahi and Ministry of Transport to consider how vehicle users would respond to School Streets road closures:

32.1. Parents and caregivers completing drop-offs and pick-ups will default to side-streets or nearby carparks, further away from school supervision and safety features.

- 32.2. Other road users, including trucks and other heavy vehicles, will redirect to less efficient routes, leading to congestion, additional traffic down side streets and through-roads, longer journey times and higher carbon emissions.
- 33 As a closing comment, truck operators don't enjoy driving around schools during pick-up and drop-off times. Driving around vulnerable pedestrians can be stressful for drivers, and the school-related congestion increases trip times. When a truck is driving down a school street at peak times, it is because there is no viable alternative.
- 34 If this proposal proceeds, Transporting New Zealand proposes that:
- 34.1. Rule 2.2 be amended to require consideration of the factors listed at Rule 3.2(1)(b) and (c) for Community Streets before creating School Streets. This would ensure freight, emergency vehicles, buses and the safety of alternative routes are properly factored into decision making.

### **Community Streets**

*4 Establish a clear process for residents to hold Community Streets, provided they have approval from RCAs.*

- 35 Transporting New Zealand cannot support this proposal as currently drafted, despite being supportive of idea in principle.
- 36 We would prefer that residents have an accessible process for arranging community streets, rather than doing so informally and putting people in danger.
- 37 Transporting New Zealand proposes the following amendments that would address our concerns:
- 37.1. Rule 3.2(1)(b) be amended to specifically exclude roadways that operate as a key route for freight being approved as a community street.
- 37.2. Rule 3.8(3)(a) be amended to expressly include freight and delivery vehicles reaching or leaving a property (for the avoidance of doubt).
- 37.3. Rule 3.1(4), 3.1(5) or 3.3 being amended to introduce a maximum time limit for Community Streets of 2-3 hours (the typical length cited at page 23 of the consultation document). Extended lengths could be considered under the provisions for functions and events, or hosted off-street (eg. at parks or reserves).

### **Closing roads for other functions and events**

*5A Allow RCAs to close roads for reoccurring events, by removing the 31-day limit per year for road closures in the LGA1974.*

- 38 Transporting New Zealand disagrees with this proposal.
- 39 The current legislative framework is fit for purpose and provides an important qualifier that the closure must not unreasonably impede traffic. In the absence of any supporting evidence or analysis from Waka Kotahi and Ministry of Transport, we consider 31 days of road closure makes adequate allowance for festivals, markets and sporting events.
- 40 Transporting New Zealand considers that events occurring on a regular or even weekly basis should be hosted off-street, to minimise disruption and congestion.

*5B Consolidate powers and requirements to close roads for events in one piece of legislation (ie. the proposed Street Layouts rule).*

41 Transporting New Zealand disagrees with this proposal.

42 Notwithstanding our general opposition, Transporting New Zealand supports updating RCA notification requirements, moving away from mandatory newspaper advertising to more relevant communication methods.

### **Pedestrian malls**

*6A Remove the requirement for local authorities to use the special consultative procedure when establishing pedestrian malls. Instead, they must apply the consultation principles in the LGA2002.*

43 Transporting New Zealand strongly disagrees with this proposal.

44 Introducing a pedestrian mall can have a significant impact on communities, over and above other street changes. A pedestrian mall can affect the viability of local businesses, limit vehicle mobility, and fundamentally change how people interact with their community. This justifies a special consultative procedure.

*6B Remove the ability for people to appeal to the Environment Court when a pedestrian mall is being created. People would be able to challenge the installation of a pedestrian mall through judicial review.*

45 Transporting New Zealand strongly disagrees with this change.

46 The Environment Court is the correct venue for challenges to be heard:

46.1. The Environment Court is a specialist court with appropriate expertise on local councils and planning issues. Pedestrian mall appeals are well within their jurisdiction.

46.2. The Environment Court is significantly more accessible for community groups and other affected persons than judicial review in the High Court. The Environment Court is less formal and has lower associated costs (counsel and venue fees).

46.3. The limited remedies available in judicial review can be highly unsatisfactory to applicants, as the High Court focuses on the process rather than the ultimate result.

47 Transporting New Zealand would encourage anyone opposed to allowing appeals to read a pedestrian mall decision by the Environment Court. The judgments thoroughly examine the advantages and disadvantages, as well as the fairness of the process followed by the RCA. This rigorous analysis and accountability should be welcomed.

48 As a final note, the comment in the Consultation Guide that *“even if just one person objects to creating a pedestrian mall, they can lodge an appeal”* gives the false impression that a challenge can be made lightly. This does not acknowledge the fact that an unsuccessful plaintiff can be liable for a costs order – an important consideration for any would-be objector.



6C Shift legislative provisions for pedestrian malls to the proposed Street Layouts rule.

49 Transporting New Zealand strongly disagrees with this proposal for the reasons discussed above.

### **Transport shelters**

7 Remove special notification requirements for creating transport shelters. Instead, RCAs would be able to publicly consult on transport shelters in the same way they do for other features, like bus stops.

*Do you support the proposal to remove the prescriptive consultation requirements for installing transport shelters?*

50 Transporting New Zealand supports the proposal.

51 Supporting collective mobility, including bus and coach transportation is a key pillar of Transporting New Zealand's climate change strategy, the Green Compact: Our roadmap to decarbonising commercial road transport by 2050.

### **About la Ara Aotearoa Transporting New Zealand**

la Ara Aotearoa Transporting New Zealand is a national membership association representing the road freight transport industry. Our members operate urban, rural and inter-regional commercial freight transport services throughout the country.

As the peak body and authoritative voice of the road freight sector, Transporting New Zealand's purpose is creating the environment where trucking operators can drive successful, safe, sustainable businesses. Our strategic priorities are:

- Providing one industry voice for advocacy
- Promoting the road freight transport industry
- Attracting talent and promoting workforce development
- Supporting our members and customers
- Sustainability, safety and responsible emissions reduction

New Zealand's road freight transport industry employs 33,000 people (1.2% of the total workforce), and has a gross annual turnover in the order of \$6 billion. This is part of a wider transport sector that employs 108,000 people and contributes 4.8 percent of New Zealand's GDP. Road freight transport accounts for 93% of the total tonnage of freight moved in New Zealand (MoT National Freight Demands Study 2018).

**END**