

Attachment 1

Proposed Auckland City Council Traffic Amendment Bylaw No 2 of 2009

The Auckland City Council Traffic Bylaw 2006 is proposed to be amended as follows (additions are underlined and deletions are struck through):

1. Insert a definition of *shared zone* in clause 25.1 in the appropriate alphabetical position:

Shared zone has the same meaning as in the Land Transport (Road User) Rule 2004.

The Land Transport (Road User) Rule 2004 states: "shared zone means a length of roadway intended to be used by pedestrians and vehicles."

2. Insert a clause 25.18A and explanatory note after clause 25.18. The new clause and explanatory note are to state:

Shared zones

25.18A.1 The council may by resolution specify any road owned or controlled by the council to be a shared zone.

Shared zones are regulated by Rule 10.2 of the Land Transport (Road User) Rule 2004 that states:

(1) A driver of a vehicle entering or proceeding along or through a shared zone must give way to a pedestrian who is in the shared zone.

(2) A pedestrian in a shared zone must not unduly impede the passage of any vehicle in the shared zone."

25.18A.2 Except where the council has by resolution specified otherwise, no person may stand or park a vehicle in a shared zone.

PROPOSED AMENDMENT OF THE TRAFFIC BYLAW 2006 by the AUCKLAND CITY COUNCIL TRAFFIC AMENDMENT BYLAW NO 2 OF 2009

STATEMENT OF PROPOSAL

1. Introduction

Auckland City Council's Traffic Bylaw 2006 came into effect on 31 March 2007. The purpose of the bylaw is to facilitate traffic management and parking control measures in respect of roads, public places, parking areas and transport stations under the control of the council. It provides measures to ensure that acceptable standards are maintained for the safe and orderly movement of traffic within the isthmus and the Hauraki Gulf Islands.

The Traffic Bylaw 2006 is subject to ongoing review to ensure that it meets its purpose. It is appropriate that the council considers the effectiveness of the Traffic Bylaw since it came into effect and to make amendments, where appropriate.

Section 156 of the LGA 2002 requires the council to use the special consultative procedure in amending a bylaw. There is a statutory requirement to consult on any bylaw change. This statement of proposal has been prepared in accordance with the requirements set out in section 86 of the LGA 2002. The statement of proposal outlines the issues, the options that the council have, the reasons for the council determining that the amendment of the bylaw is appropriate and the proposed wording of the clauses that are to be amended or inserted.

2. Reason for the proposal

There is significant opportunity to transform Auckland City's streets, through the introduction of the shared space concept (referred to in transport legislation as "shared zones"). Although a new concept in Auckland, shared spaces have been successfully implemented overseas – including in New York, London, Copenhagen and Brisbane. Where shared spaces have been introduced, city streets have been reclaimed as public spaces and the quality of spaces for people have been measurably improved without having to ban vehicles. These results are well aligned with the design objectives of the CBD Streetscapes and open spaces programme. Shared spaces provide a continuous paving pallet across the entire street reserve and remove the traditional delineation between footpath and roadway provided by kerbs. In doing this, shared spaces provide an environment where pedestrians and vehicles have equal priority.

The principal benefits of shared space over a conventional streetscape upgrade are:

- greater improvements to streetscape upgrades in terms of meeting Auckland City Council's urban design objectives
- greater pedestrian priority and increased space for pedestrians within the streetscape;
- increased cohesion and connectivity within the streetscape;
- slower vehicle speeds and reduced traffic volumes;
- increased flexibility of the streetscape environment as a public open space enabling greater use for diverse street activities;
- provides opportunities to better support business and retail activity and function as a public open space.

3. Section 77 of the Local Government Act 2002

Section 77 of the LGA 2002 requires local authorities in the course of the decision making process

- a. seek to identify all reasonable practicable options for the achievement of the objective of a decision; and
- b. assess those options by considering -
 - i. the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well being of the district or region; and
 - ii. the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and
 - iii. the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and
 - iv. any other matters that, in the opinion of the local authority, are relevant; and
- c. if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

The options available to the council are:

(1) Do nothing – leave the bylaw unchanged and rely on the design and construction of identified roads to provide for mixed use of identified roads by pedestrians and vehicles. This option is not favoured as it may lead to confusion between pedestrians and vehicle drivers regarding precedence in the use of the road. The declaration of a shared zone by the council is required before the behavioural rules in Rule 10.2 of the Land Transport (Road User) Rules 2004 become operational. This rule ensures that pedestrians have right of way in shared zones and that vehicles have to give way to pedestrians. If the council is unable to specify a road as a shared zone by bylaw, vehicles will have the right of way. This will cause confusion and increase the likelihood of collisions and injuries to pedestrians. This may further have liability consequences for the council. If shared spaces are not formally declared as "shared zones" appropriate signs cannot be erected identifying the roads as shared zones where the provisions of Rule 10.2 of the Land Transport (Road User) Rules 2004 apply.

(2) Amend the bylaw in the proposed manner. During the review of the Traffic Bylaw in 2006, the council determined that a bylaw is the most appropriate way of dealing with traffic management issues. The national legislative framework that enables the council to facilitate traffic management within its jurisdiction relies on the council making appropriate bylaws. Other methods such as public education and the raising of awareness contribute to facilitate the management of traffic but are in themselves not adequate to achieve many desired outcomes. The most appropriate method of dealing with the issue is to amend the current Traffic Bylaw 2006 to provide for the council to identify roads that may be suitable for sharing by vehicles and pedestrians and for the council to declare shared zones where Rule 10.2 of the Land Transport (Road User) Rules 2004 apply. This will provide clarity regarding the preference of the use of these roads by pedestrians, subject to reasonable restrictions to allow for the use of the roads by vehicles. Option 2 is recommended for the Traffic Bylaw 2006, subject to consultation in accordance with the special consultative process.

4. Section 155 of the Local Government Act 2002

4.1 Section 155 of the Local Government Act 2002

The amendment of a bylaw must include a consideration of the matters set out in section 155. Section 155 requires local authorities before commencing the process for making a bylaw, to determine whether a bylaw is the most appropriate way of addressing the perceived problem. If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must before making the bylaw determine whether the proposed bylaw:

- a. is the most appropriate form of bylaw; and
- b. gives rise to any implications under the New Zealand Bill of Rights Act 1990.

4.2 Determination of the problem

At its 11 June 2009 meeting, the Transport Committee approve the concept of shared space and the implementation of shared spaces within Auckland City. It was also supported by the CBD Board, who at their 30 April 2009 meeting the CBD Board the introduction of shared space and associated costs to the CBD Streetscapes and Open Space Programme. One design approach is to provide a continuous paving pallet across the entire street reserve and remove the traditional delineation between footpath and roadway provided by kerbs. In doing this, shared spaces provide an environment where pedestrians and vehicles have equal priority. This approach is a shift from the traditional priority of use of the road by vehicles. It is necessary to ensure clarity for the users of the shared zones through signs and rules of behaviour. This requires a formal specification by the council of shared zones, which provides legal right of way for pedestrians within the space.

No provision is made within any transport legislation (the Transport Act 1962, the Land Transport (Road User) Rule 2004 and the Land Transport Rule Traffic Control Devices 2004 (Traffic Control Devices Rule) for a method to declare shared zones. However, as a general empowering clause section 684 of the Local Government Act 1974 enables territorial local authorities to make bylaws concerning the use of roads. The council at the moment does not have any ability to declare a shared zone under the Traffic Bylaw 2006.

It is proposed to amend the Traffic Bylaw 2006 to empower the council to specify by resolution roads to be shared zones. This amendment will be in accordance with the other clauses of the Traffic Bylaw 2006 that enables the council to make decisions regarding operational issues by resolution, thereby avoiding the costly and protracted special consultative procedure required for amending bylaws. The proposed process allows the council to consult with affected and interested persons pursuant to the decision making provisions of the Local Government Act 2002 when it considers roads that may be specified as shared zones.

The specification as a shared zone results only in the change in the priority of use of the road for pedestrians provided by Rule 10.2 of the Land Transport (Road User) Rule 2004. The proposed amendment of the bylaw provides that parking of vehicles will generally not be allowed in shared spaces. This is intended to ensure greater pedestrian priority and increased space for pedestrians within the streetscape. However, the council will by resolution be able to make exceptions to the general rule and allow parking where it is deemed appropriate. All other aspects of the shared space (such as one way streets, speed limits, loading zones) will be specified by the council using the existing clauses Traffic Bylaw provisions. For example, one-way streets for vehicles in a shared zone will be specified pursuant to clause 25.2.2, speed limits will be set under clause 25.6.3, etc. The control of vehicular activities within the shared zones may be considered holistically and designed for each particular shared zone. It is envisaged that when the council approves a shared zone it will simultaneously specify other aspects pertaining to the use of the space pursuant to the other clauses of the Traffic Bylaw.

Signs and markings in shared zones will be subject to the Land Transport (Road User) Rule 2004, the Land Transport (Traffic Control Devices) Rule 2004 and the Land Transport (Setting of Speed Limits) Rule 2003 and the Traffic Control Devices Manual of the New Zealand Transport Agency. Where appropriate the council will obtain approval from the New Zealand Transport Agency of unique shared zone signs to reflect the shared space environment. This would allow the council to combine a number of regulatory controls depending on what it deems appropriate for each specific shared space. Combining these controls onto one sign will minimise the need for the council to provide specific signs within the shared space, unless it designates specific areas in the shared space for mobility parks etc.

4.3 Analysis of the proposed amendment to the Traffic Bylaw 2006

The Auckland City Council Traffic Bylaw 2006 is proposed to be amended as follows (additions are underlined and deletions are struck through):

4.3.1 Insert a definition of *shared zone* in clause 25.1 in the appropriate alphabetical position:

Shared zone has the same meaning as in the Land Transport (Road User) Rule 2004.

The Land Transport (Road User) Rule 2004 states: “shared zone means a length of roadway intended to be used by pedestrians and vehicles.”

4.3.2 Insert a clause 25.18A after clause 25.18. The new clause is to state:

Shared zones

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Shared zones are regulated by Rule 10.2 of the Land Transport (Road User) Rule 2004 that states:

(1) A driver of a vehicle entering or proceeding along or through a shared zone must give way to a pedestrian who is in the shared zone.

(2) A pedestrian in a shared zone must not unduly impede the passage of any vehicle in the shared zone.”

25.18A.2 Except where the council has by resolution specified otherwise, no person may stand or park a vehicle in a shared zone.

4.4 New Zealand Bill of Rights Act 1990.

The Local Government Act 2002 requires local authorities to determine whether any proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The proposed amendments of the Traffic Bylaw 2006 to allow the council by resolution to specify any road owned or controlled by the council to be a shared zone do not give rise to any implications under the New Zealand Bill of Rights Act 1990. The council will specify the roads that are to be shared zones by resolution after consultation with persons that will be affected by the shared zones, including the owners and occupiers of adjacent properties, emergency services and the police.

5. Conclusions

The proposed amendment of the Traffic Bylaw 2006 enables the council to specify suitable roads, after consultation with affected persons, as shared zones. This will allow for a comprehensive approach to the development of shared zones through design, construction and signage. Rule 10.2 of the Land Transport (Road User) Rules 2004 provides that vehicles proceeding through shared zones must give way to pedestrians but that pedestrians must not unduly impede vehicles in the shared zone. Shared zones will enhance environmental conditions through better air quality, lower noise levels and visual amenity from landscaping, will ensure fewer crashes and less severely injured casualties, improve social interaction and provide a greater sense of community when streets are used for walking, playing and talking and improve security from increased natural surveillance.