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Attention: Accessible Streets Consultation

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## **Submission to Accessible Streets Consultation (Waka Kotahi NZ Transport Agency)**

### **Introduction**

The Rosebank Business Association ('Association') - 'Rosebank – Gateway to the West' - welcomes the opportunity to make this submission.

The Rosebank Business Improvement District is a commercial and industrial hub of 575-600 businesses located on the Rosebank Peninsula in the West Auckland. It has direct access to the SH16 North-Western Motorway and once the Waterview tunnel is completed, will link to the SH20 Airport Motorway. Businesses in the area generate an estimated \$1 billion in revenue, pay rates of \$4.5 million and employ about 9,000 FTEs. The predictions are that this workforce will increase to 20,000 by 2025.

### **Background**

Waka Kotahi - NZ Transport Agency is consulting on a collection of rule changes known as the Accessible Streets Regulatory Package.<sup>1</sup> The package consists of nine proposals intended to support and improve accessible and affordable transport, safety and liveable cities.

The package will clarify: • the types of vehicles and devices allowed on footpaths, shared paths, cycle paths and cycle lanes; • how devices can use these spaces; • how road controlling authorities may regulate pedestrians, devices and spaces like footpaths; and • the priority given to a range of road users to remove barriers to walking, device use and cycling. Submissions on the proposed package close on 20 May 2020.

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<sup>1</sup> <https://www.transport.govt.nz/multi-modal/keystrategiesandplans/road-safety-strategy/accessible-streets/>

**Proposal One: Change and re-name the types of devices that are used on footpaths, shared paths, cycle paths and cycle lanes**

*This proposal looks to change the current vehicle and device definitions and create new categories to allow better regulation of new and emerging devices and where and how they're used. Broadly speaking, the proposal would create the following categories: • pedestrians; • powered wheelchairs; • mobility devices; • unpowered transport devices; • powered transport devices; and • cycles and e-bikes.*

The Association supports the attempt in Accessible Streets to clarify the status and categories of small transport devices and bicycles within the current legislative framework.

However, the Association is concerned that the package does not change the status of powered transport devices not already declared to not be motor vehicles (a list which to date only consists of e-scooters, YikeBikes and e-bikes). Neither does it remove the unsuitable use of specified power levels (300W to 600W limits) as the primary means of categorisation and control as these are set in the Land Transport Act 1998. Addressing these matters will require further/ broader changes outside the scope of the package.

In our view, these changes should include: • removal, or at least replacement of, the current regulatory process required to declare a powered device not to be a motor vehicle, and the removal of the current 300W and 600W limits used in the Land Transport Act 1998; as well as • introduction of a new legislative and regulatory framework that is focused on the main harm reduction/safety factors (such as the speed and weight of the transport devices).

The Association has concerns that the current regulatory framework and the processes for updating it are not sufficiently nimble for the changes in mobility and transport devices being introduced (such as e-scooters). As a consequence, the Association believes that technological solutions (such as geo-fencing) should be utilised as much as possible to self-regulate the use of mobility and transport devices.

**Proposal Two: Establish a national framework for the use of footpaths**

*This proposal is looking to change who is allowed on footpaths and introduce conditions that users need to follow when using the footpath. For the safety of others sharing the footpath, people riding on the footpath under the new rule must: • behave in a courteous and considerate manner; • travel in a way that is not dangerous for other people using the footpath; • give right of way to pedestrians; • travel no faster than 15km/h; and • ride a device no wider than 750mm, unless it's a wheelchair, so multiple people can still use the footpath.*

The Association partially supports the intention of the proposal to give as many people as possible safe spaces to travel while maintaining and prioritising pedestrian access. The Association also supports clearer rules for people riding on the footpath.

The Association particularly supports the option for local road controlling authorities (such as Auckland Transport) to have the ability to manage the use of certain footpaths or areas of footpaths by pedestrians, mobility devices, transport devices or cycles. Across the Auckland region, for instance, there is a wide range of differing challenges and opportunities in using footpaths for all these purposes.

For example, the Association supports restricting cyclists from using footpaths or areas of footpaths in built-up retail areas (such as the main retail area in Broadway in Newmarket). On the other hand, some built-up retail streets are also in close proximity to primary schools where use of the footpath for cycling by primary children would be appropriate (such as in parts of Parnell). Still further, in some industrial/commercial areas, such as North Harbour, use of the footpaths by mobility devices, transport devices or cyclists might be encouraged where using the road is more dangerous or congested.

The Association believes these powers should be able to be exercised by local road controlling authorities by resolution rather than them having to make a bylaw. However, national guidance is also preferred over leaving these decisions entirely to the discretion of local road controlling authorities.

Should the above option not be preferred by Waka Kotahi - NZ Transport Agency, the Association believes a proposal of allowing younger cyclists to use the footpath is appropriate. However, the Association recommends the age limit being 12 years rather

than 16 years as this strikes a more appropriate balance between the needs of pedestrians and cyclists than the status quo, and also reflects the Association's experience of teenager misbehaviour in the ages 12 and above.

The Association also believes consideration should be given to exemptions allowing footpath cycling to include: • permitting users over the age of 65; • permitting caregiver users accompanying cyclists up to 12 years old. The Association believes the proposed 15km/h speed limit on footpaths being lowered to 10 km/h.

### **Proposal Three: Establish a national framework for the use of shared paths and cycle paths**

*This proposal is looking to clarify who is allowed on shared paths and cycle paths and to introduce the conditions they need to follow. These changes will clarify that: • if a path is located beside a roadway, the speed limit on the path will match the roadway. If a path is not located beside a roadway, the speed limit will be 50km/h; and • all users must give way to pedestrians on shared paths; and • road controlling authorities can declare that a path is a shared path or cycle path by resolution.*

The Association supports the attempts to clarify the status and rules for shared paths.

The Association believes that where shared paths or cycle paths have been provided that cyclists should be using those paths in preference to the roadway. The Association has concerns that the construction of shared paths and/or cycle paths typically requires a reduction in retail carparking spaces where they traverse retail areas. Unless the shared paths and/or cycle paths are used by cyclists in preference to using the roadway, this results in an unnecessary reduction in retail carparking space and leads to opposition from retailers to future shared path and/or cycle path development.

Putting this issue to one side, the Association believes changes should be made to the proposal so that: • the default speed limit is not tied to the adjacent roadway (that is, a standard default limit should apply to all shared paths (25 km/h) and cycle paths (50km/h) to reduce the risk to the more vulnerable users of these spaces); • road controlling authorities should have the ability to raise speed limits as well as lower them, for instance along a stretch of wide shared path sparingly used by pedestrians; • priority should be given to cyclists over powered transport device users to recognise the importance of active transport and the physical effort required of these users to regain momentum; and • speed limit signs be painted on the paths where the speed limit differs from the default.

### **Proposal Four: Enable transport devices to use cycle lanes and cycle paths**

*This proposal is looking to allow transport devices, such as skateboards and e-scooters, to use cycle lanes and cycle paths.*

The Association supports the proposal to allow transport devices similar to cycles to use cycle lanes and cycle paths as this will improve the safety of these device users compared to them using the roadway.

Although this may be negated to some degree by a potential increase in conflicts between users on devices and cycles travelling at different speeds on cycle lanes and cycle paths, the Association considers this is preferable to having these conflicts occur between device users and cars or trucks on roadways.

### **Proposal Five: Introduce lighting and reflector requirements for powered transport devices at night**

*This proposal is looking to introduce lighting and reflector requirements for powered transport devices at night. This proposed change would only permit transport devices on roads and paths at night if they are fitted with: • a headlamp; • a rear facing position light; and • a reflector (or if the user is wearing reflective material).*

The Association supports the safety intentions of this proposal.

The rationale in applying a consistent approach to the lighting and reflector requirements for both cycles and powered transport devices is supported.

However, it is unclear why unpowered transport devices are not covered by a similarly consistent approach. It is also likely that the proposal will indirectly prevent the use of some devices at night. For instance, currently unpermitted devices like skateboards may, if approved in future, be unable to meet these requirements. Waka Kotahi - NZ Transport Agency states that the safety benefits will likely outweigh the costs yet given the unknown range of possible future designs and their level of popularity, it is difficult to know if this will be the case. It is requested that Waka Kotahi - NZ Transport Agency consider whether different lighting requirements could be acceptable for different devices using footpaths at night compared to other parts of the road.

**Proposal Six: Remove barriers to walking, transport device use and cycling through rule changes**

*This proposal is looking to change the priority of road users by:*

- allowing cycles and transport devices to ride straight ahead from a left turn lane or pass slow-moving vehicles on the left;
- clarifying that turning traffic must give way to all people travelling straight ahead using separated lanes, including buses; and
- giving greater priority to people on footpaths and shared paths when they're crossing side roads with minimum markings (two white lines).

With regard to allowing cyclists and users of transport devices to ride straight ahead from a left turn lane or pass slow-moving vehicles on the left that is currently illegal, the Association supports these rules as they will improve the safety of cyclists by legalising safer behaviours. This could be improved by extending and also introducing the ability for cyclists and device users to use the pedestrian phase of signalised intersections to cross intersections.

With regard to clarifying that turning traffic must give way to all people travelling straight ahead using separated lanes, the Association supports this proposal as it will improve the safety of cyclists and other cycle path users, such as e-scooter users, by giving them clear right of way in these circumstances.

With regard to giving greater priority to people on footpaths and shared paths when they're crossing side roads with minimum markings, the Association partially supports moves to give priority to more vulnerable and sustainable modes. However, the proposal will likely only see this priority applied in a small number of locations and result in little change in priority for most users. The rules might instead be applied more widely, though the cost of this must be borne in mind.

**Proposal Seven: Mandate a minimum overtaking gap for motor vehicles passing cycles, transport devices, horses, pedestrians and people using mobility devices on the road**

*This proposal is looking to mandate a minimum overtaking gap (on the road) for motor vehicles overtaking cycles, transport devices, horses, mobility devices and pedestrians of:*

- 1 metre, when the posted speed limit is 60km/h or less; or
- 1.5 metres, when the posted speed limit is over 60km/h.

The Association supports the mandating of minimum passing distances of 1m when the speed limit is 60km/hr or less and the minimum passing distance of 1.5m for roads with speed limits over 60km/h.

However, changes should be made so that:

- the minimum 1.5m passing distance applies to roads with speed limits up to 60km/hr as well; and
- the minimum passing distance also applies to passing cyclists in unprotected cycle lanes.

**Proposal Eight: Clarify how road controlling authorities can restrict parking on berms**

*This proposal is looking to clarify what is needed for road controlling authorities to restrict parking on berms and remove the need for signs. The proposed method is for a road controlling authority to pass a resolution and register the restriction with Waka Kotahi.*

The Association supports clarification of the rules and requirements for restricting parking on berms. However, the Association believes a more straightforward solution than that proposed is to amend the definition of footpath to include a 'berm' where constructed and to define what is a 'berm'. For example, the Association suggests "footpath" be redefined to mean a path or way principally designed for, and used by, pedestrians; and includes a footbridge or a berm. "Berm" means a grassed or cultivated area of a footpath.

**Proposal Nine: Give buses priority when exiting bus stops**

*This proposal is looking to require road users to give way to signalling buses pulling out of bus stops in urban areas, when the speed limit is 60km/h or less.*

The Association supports this proposal as this will enable the more efficient operation of Auckland's bus network, reduce delays for bus passengers and reduce operating costs.

**Other matters**

Further to the specific feedback provided above, the Association notes concerns that the current regulatory framework and the processes for updating it are not sufficiently nimble for the changes in mobility and transport devices being introduced (such as e-scooters). While the Association believes there must be a focus on improving the processes for making regulations at both a national and local level, the Association also believes that technology should be utilised in innovative ways to self-regulate the use of mobility and transport devices. For example, there could be greater use of geo-fencing to limit speeds and 'no go' zones. The Association suggests that technological restraints (such as geofencing) will be quicker to implement than the usual regulatory approaches, more efficient than regulatory enforcement at preventing accidents, and be less punitive than making prosecutions.

Finally, another issue the Association wishes to raise is the funding mechanism for footpaths. We understand that while roads are funded up to 50% by Waka Kotahi - NZ Transport Agency, footpaths are funded entirely by local authorities. We understand that government funding is also made available to local authorities for shared paths and cycle paths. The Association asks that consideration be given to greater national funding of footpaths so that they are able to be constructed and maintained to standards sufficient to support their increased use for mobility and transport as well as pedestrian use.

**The Association would be pleased to be heard at any hearings to consider these and other submissions.**

Yours sincerely,



Mike Gibson  
CEO  
Rosebank Business Association