

From: s 9(2)(a)
To: [Glenn Bunting](#)
Cc: s 9(2)(a); [Harry Wilson](#)
Subject: RE: Rainbow crossing - WCC
Date: Wednesday, 16 May 2018 3:32:49 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Glenn,

I have discussed this Council proposal, and the NZTA position in relation to it, amongst our team here.

Whilst Police supports celebrations of diversity, our view is that this proposal poses risks of death and serious injury for road users – pedestrians in particular.

Having a pseudo pedestrian crossing on a traffic signalled controlled intersection is likely to lead to some pedestrians treating the site as a pedestrian crossing, stepping out on the road when motor vehicles have a green light to legally continue through the intersection. Wellington City already experiences serious outcome crashes involving pedestrians and motor vehicles in the CBD. This proposal, as it is described, is most likely to add to those safety risks.

While acknowledging the Police power pursuant to the Rule to cause the removal of traffic control devices in the interests of safety, our preference would be a negotiated resolution to this situation between the parties. Taking steps pursuant to clause 13.9(1) will be considered by Police if a negotiated resolution cannot be reached and there remains a safety risk that cannot otherwise be effectively resolved in a timely manner.

Feel free to get in touch to discuss further as required.

Regards

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(a)

Road Policing Support

s 9(2)(a)



From: Glenn Bunting s 9(2)(a)

Sent: Wednesday, 16 May 2018 11:23 a.m.

To: s 9(2)(a)

Subject: Rainbow crossing - WCC

Morning s 9(2)(a) - this is a heads up of an impending situation we are finding ourselves in with Wellington City Council. You might have noted about 6 weeks ago some media around WCC's intent to install a rainbow crossing at the Cuba Street/Dixon Street intersection. Since then we have met with them a couple of times explaining how this would be illegal under the TCD Rule, and suggesting other options that they should consider to achieve the result they are wanting. s 9(2)(g)(i)

The draft of the letter we are intending to sent to WCC is below, which hopefully fills in the gaps for you, and at the end you will see our reference to clause 13.9(1) of the Rule which reads "A member of the New Zealand Police may install, modify, remove, or

direct the removal of a traffic control device if: ...(c) it is considered necessary in the interests of the safe or efficient use of a road.

So Harry has asked that I contact you to confirm that Police would support us in this, and he has asked that you draft a short letter to us to that effect that we can show Fergus, and have on file.

Happy to discuss - give me ring on my cell anytime.

Cheers, Glenn

Here is the draft letter to WCC:

Thank you for meeting with Emma, Glenn and me on Tuesday 27 March to discuss the rainbow crossing proposal.

Our understanding of the Council's position is that:

- you intend to mark the rainbow pedestrian crossing between the existing pairs of signalised pedestrian crossing road markings,*
- the purpose of the markings is to celebrate LGBT diversity*
- you do not agree that the markings constitute a traffic control device*
- the Council has undertaken a risk assessment and is comfortable that risks have been adequately mitigated by the proposal, which now includes a speed cushion on Dixon Street prior to the intersection,*
- you are asking that the Agency approves a trial under clause 3.4 of the Traffic Control Devices (TCD) Rule*
- you do not consider the alternative proposal of a raised shared zone 'courtesy' type crossing, designed to reduce vehicle speeds to 10km/h right through the intersection, suitable as it would be different to the intersection controls at the other Cuba Street intersections and traffic signals are the best way to control vehicle traffic.*

The Agency has further assessed the proposal shown on your UD81-LGBT-CD-100 revision C and notes that it does not show the three sets of signal displays and pedestrian call boxes. While there are two sets of parallel pedestrian crossing lines as shown on the plans, the three sets of signals and callboxes, one at each end and one in the middle, means that signalised intersection to all intent and purpose operates as just one large signalised pedestrian crossing, with the two 'internal' pedestrian crossing lines being fundamentally redundant. Alternatively, if the two internal pedestrian crossing lines are considered functional, there are three signalised pedestrian crossings operating together, each with their own pedestrian crossing displays and pedestrian call boxes. Either way, considering the three signal displays and pedestrian call boxes, particularly the centrally located set available for pedestrians to use in the middle of the intersection, the Council's contention that the proposed rainbow pedestrian crossing markings are outside of the signalised pedestrian crossing areas is clearly not valid.

The Agency's view is that placing the rainbow pedestrian crossing, as is proposed, in a location that is controlled by traffic signals is strictly forbidden by the TCD Rule clause 8.5(2A) "A road controlling authority may not mark a pedestrian crossing in an area controlled by traffic signals". This is because of the confusion in messages that this sends to road users. At locations controlled by traffic signals the give way rules are different to those at a pedestrian crossing,

and therefore conflict. The Rule requires a TCD to convey a clear and consistent message to Road Users (clause 3.1). Specifically:

- in combination with the traffic signals in that location, the markings would potentially send conflicting messages to both driver and pedestrians who may not know which traffic control device prevails – the traffic signals, which must signal green before pedestrians can cross, or the rainbow pedestrian crossing where drivers must give way to pedestrians, and to riders of wheeled recreational devices or mobility devices on the pedestrian crossing or obviously waiting to cross it;
- the Cuba precinct is a busy and diverse area in the city – with a wide range of ethnic groups and ages represented (in relation to the latter, the elderly patrons of the Working Men’s Club at one end of the scale and the pre-schoolers at the Early Years Leeds Street kindergarten at the other end – both vulnerable groups). Given this wide demographic, there is a high risk of confusion and a dazzling and distracting effect; and
- the crash record at the intersection already includes two minor injury pedestrian casualties in the last five years.

Markings on the road for the purpose of celebrating LGBT diversity conflicts with clause 5.5 of the TCD Rule which prohibits a person from installing a marking on a roadway that is intended to be used for “advertising or other purpose not connected with the use of the road”.

The rainbow pedestrian crossing looks like a traffic control device and could well be mistaken for one (being striped and painted on the road at a place designed for pedestrians to cross, very similar to a pedestrian crossing), which also breaches clause 3.2(5) of the TCD Rule. This is reinforced by the duty in 13.7(c) of the TCD Rule which links to the Land Transport (Offences and Penalties) Regulations 1998.

The suggestion at the meeting to put markings across the road rather than along the road (which wouldn’t then form a ‘pedestrian crossing’ under the TCD Rule) would still breach the provisions cited above.

As discussed at the meeting, the Agency would not approve a trial of markings that add no road safety value, which is the fundamental intent of the TCD Rule and the intent of trials provision and the delegations the Agency has for trials under the Rule.

As detailed above, and in Emma’s email to you dated 20 March, the Agency has suggested Council consider creating a low speed, shared zone environment for road users. This would remove the traffic signal conflict within the TCD Rule (clause 8.5(2A) and, in the Agency’s view, better meet the fundamental intent of clause 3.1 of the Rule, as the consequences of a mistake by pedestrians or drivers would be far better mitigated.

This letter is formal notification to the Wellington City Council that under clause 3.2(3) of the TCD Rule, the Agency prohibits the installation of the proposed rainbow pedestrian crossing as detailed on the Council’s plan UD81-LGBT-CD-100. Should the Council proceed to install the markings, the Agency will direct their removal, ask the NZ Police to prevent their installation and/or remove the markings (clause 13.9(1)), and proceed to prosecution under clause 13.7(c) of the TCD Rule.

Yours sincerely
Harry Wilson

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www.nzta.govt.nz

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