

12 August 2019

David Chick
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Dear David

Rainbow pedestrian crossing

Emma Speight, our Regional Director, has been discussing with you and your team for some time the compliance concerns that the Transport Agency has with the rainbow pedestrian crossing that the Council has marked within the traffic signals on Dixon Street at Cuba Street. Thank you for your email to Emma dated 29 July 2010 providing compliance data information. We are writing to invite you to formally apply for an exemption to the Land Transport Rule: Traffic Control Devices 2004 (the **TCD Rule**).

Why is an exemption needed?

The TCD Rule sets out the requirements that traffic control devices and pedestrian crossings in particular must meet. As discussed with your team, we believe that the rainbow pedestrian crossing is in breach of the TCD Rule because:

- There is a general requirement that traffic control devices must contribute to the safe and effective control of traffic and must convey a clear and consistent message to road users.
- The Rule is prescriptive in terms of the requirements for a pedestrian crossing (see Rule 8.2). For example, the Rule requires reflective white stripes, black and white poles, amber illuminated globes and advance warning signs. The rainbow pedestrian crossing does not meet these prescriptive requirements.
- The Rule prohibits pedestrian crossing markings in an area controlled by traffic signals (see Rule 8.5(2A)). Because the rainbow pedestrian crossing is at location where there is also controlled crossing traffic signals, the rainbow crossing is prohibited by the Rule.
- There is also a more general prohibition on installing a device, sign or object that may be mistaken for a traffic control device but is not a traffic control device (see Rules 3.2(5) and 13.7(c)), and a prohibition for markings on a roadway intended for advertising or other purpose not connected with the use of a road (see Rule 5.5).

The option is available to seek an exemption

The Agency has the power to grant an exemption to the TCD Rule under to section 166(1) of the Land Transport Act 1998 if certain safety criteria are satisfied – including being satisfied that the risk to safety will not be significantly increased by granting the exemption.

We invite the Council to seek an exemption for the rainbow pedestrian crossing. To help the Agency assess whether an exemption can be granted for the rainbow pedestrian crossing, it would be helpful if the Council could provide:

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- any further information to assist the Agency's assessment of whether the risk to safety has been significantly increased by the rainbow crossing or not. It would be helpful, for example, to have a road safety audit undertaken by an independent expert (agreed to by the Agency); and
- in the context of the requirements of the TCD Rule any information to assist the Agency's assessment of either:
 - a. how the requirements have been substantially complied with and that further compliance is unnecessary; or
 - b. how the installation of the rainbow pedestrian crossing is as effective or more effective than actual compliance with the requirements; or
 - c. why the prescribed requirements are clearly unreasonable or inappropriate in this particular case; or
 - d. the events that have occurred that make the prescribed requirements unnecessary or inappropriate.

Our preliminary analysis of the compliance data provided by Council is attached. The before September numbers have been compared to the equivalent values for the same days in the three after surveys. Red is a poorer outcome, green a better outcome. Where there is either no before date (Mondays and Tuesdays), or where there is no after data on the same day, no direct comparisons have been made, although these values are picked up in the comparative averages.

December's after data is very poor, with improvements in January and July, though generally not returning to the same compliance levels as in the before state. The late afternoon period remained poorly performing even in July 2019 being in the order of 10% worse than the before compliance level.

In the summary attached, the % values listed against each after time period are the actual data values from the Council excel sheet to show how the % difference is calculated when compared to September %.

No evidence regarding traffic speeds and gaps was provided.

While we have yet to form a final view as to whether an exemption can be granted in these circumstances, we would welcome any further information you can provide us to help us with that assessment.

Yours sincerely

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Greg Lazzaro
General Manager Safety, Health and Environment

Day / Time	September		December		January		July	
	% Crossing with green pedestrian aspect	% Crossing with red or flashing red pedestrian aspect	% change from Sept	% change from Sept	% change from Sept	% change from Sept	% change from Sept	% change from Sept
Morning 11:00am - 11:30am			61% 54% 59% 58% on green		71% 71% 74% on green		77% 72% on green	
Mon	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Tues	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Wed	75%	25%	14%	14%	--%	--%	2%	2%
Thurs	75%	25%	21%	21%	4%	4%	--%	--%
Fri	76%	24%	17%	17%	5%	5%	--%	--%
Average	75%	25%	17%	17%	1%	1%	3%	3%
Mid - day 1:00pm - 1:30pm			63% 69% 65% 66%		76% 75% 76%		71% 73%	
Mon	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Tues	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Wed	75%	25%	12%	12%	--%	--%	4%	4%
Thurs	74%	26%	5%	5%	2%	2%	--%	--%
Fri	79%	21%	14%	14%	4%	4%	--%	--%
Average	76%	24%	10%	10%	0%	0%	3%	3%
Late afternoon 4:30pm - 5:00pm			62% 73% 72% 69%		71% 70% 72%		72% 73%	
Mon	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Tues	Not measured	Not measured	--%	--%	--%	--%	--%	--%
Wed	85%	15%	23%	23%	--%	--%	13%	13%
Thurs	80%	20%	7%	7%	9%	9%	--%	--%
Fri	83%	17%	11%	11%	13%	13%	--%	--%
Average	82%	18%	13%	13%	10%	10%	9%	9%

%	Positive impact between before and after
0%	No change between before and after
-%	Negative impact between before and after
--%	Not measured in the before situation (or in the after situation in the case of Wed = January & Thursday / Friday = July)