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David Chick  
Chief City Planner  
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Dear David

**Rainbow pedestrian crossing**

Further to your discussions with Emma Speight requesting a formal decision on an exemption for the rainbow pedestrian crossing that Council has marked within the traffic signals on Dixon Street at Cuba Street.

Issuing an exemption pursuant to section 166(1) of the Land Transport Act 1998 requires the Agency to consider if the application is appropriate under the circumstances, in the context of the objectives of the Land Transport Rule: Traffic Control Devices (2004) (the TCD Rule). Section 166(2) then requires that *"the Agency must be satisfied in the circumstances of each case that the risk to safety will not be significantly increased by the granting of the exemption and that:*

- (a) the requirement has been substantially complied with and that further compliance is unnecessary; or*
- (b) the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or*
- (c) the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or*
- (d) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case".*

The rainbow pedestrian crossing conflicts with the following parts of the TCD Rule:

- placing the rainbow pedestrian crossing, specifically in the way it has been marked at the Cuba Street intersection and 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"*;
- markings on the road for the purpose of celebrating LGBT diversity conflicts with clause 5.5 of the 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, being striped and painted on the road at a place designed for pedestrians to cross, breaches clause 3.2(5) of the Rule *"A person must not install on a road, or in or on a place visible from a road, a sign, device or object that is not a traffic control device, but that:*
  - (a) may be mistaken for a traffic control device; or*
  - (b) may prevent the traffic control device from complying with 3.1(a) to (d).*

This is reinforced by the duty in 13.7(c) of the Rule *"A person must not...mark or install, or allow to be marked or installed, on a road, or in or on a place that is visible from a road, a sign, device or object that appears to be a traffic control device but is not"*.

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The Rule also details the general requirements for traffic control devices, specifically that they “*must contribute to the safe and effective control of traffic and must...convey a clear and consistent message to road users*”. Creativity or the promotion of any cause are not factors that can be considered under the legislation.

Uniform traffic control devices make it easy for all users of the transport system including local residents, people from all around New Zealand and overseas tourists to quickly see, recognise, understand and comply with the traffic control devices. The benefits of uniformity of traffic control devices are recognised in jurisdictions around the world. New Zealand, like most other jurisdictions, believes there are significant safety risks in moving away from uniform traffic control devices to having multiple different versions of traffic control devices in different places. The Rule requirement for marked and signalised pedestrian crossings is an internationally recognised standard that also meets New Zealand’s commitment to AustRoads for standardisation of traffic control devices across Australasia.

I am required to perform my regulatory function as intended by the outcomes and provisions of the relevant legislation. I have assessed your application against the objective, purpose and general requirements of the Land Transport Rule: Traffic Control Devices 2004, specifically the expressed requirement to not mark a pedestrian crossing in an area controlled by traffic signals. Considering, then, the specific requirements of Section 166 of the Land Transport Act 1998 for exemptions that I must also be satisfied with, s9(2)(j)

s9(2)(j)

The Agency maintains its willingness to work with Council on options that celebrate LGBT diversity, as long as they don’t contravene the requirements and intent of the TCD Rule.

Yours sincerely

**Harry Wilson**  
Director Safety and Environment

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