

1 July 2022

Chief Executive Office
New Zealand Transport Agency (Waka Kotahi)

Attn: Nicole Rosie

By e-mail: nicole.rosie@nzta.govt.nz

Re; Waka Kotahi's decision not to trial the reallocation of Auckland Harbour Bridge space for active modes of transport

Introduction

1. I have been instructed by Schmidt and Peart Law to represent and advise its client, Movement, a charitable trust whose purpose is to promote alternative modes of transport and/or sustainable transport in Aotearoa, New Zealand.
2. The purpose of this letter is to put Waka Kotahi ("WK") on notice of Movement's intention to apply for a Judicial Review of a decision claimed to have been made by WK, on 16 December 2021¹, not to trial reallocating a lane or lanes on the Auckland Harbour Bridge ("AHB") to active modes of transport² ("the Decision").

Background to the Decision

3. The AHB was opened in 1959. All original proposals for the AHB provided for walking and cycling with tolls initially proposed for both modes. However, aside from a bus strike in 1974 when space on the AHB was allocated to cyclists and pedestrians, and ticketed events held annually, such as the Auckland Marathon and organised cycle rides, cycling and walking on the AHB never eventuated. Active modes were legally excluded from using the AHB in 1982 when WK's predecessor had it declared a motorway.
4. During 2010 to 2015, a design called SkyPath, which was developed with input and the support of WK, was granted resource consent. Essentially it was a structure designed for active mode use that was proposed to be attached to and sit below the road surface of the AHB.
5. In 2018 WK formally took ownership of SkyPath, which was absorbed into the Northern Pathway Project, to be developed in conjunction with the Sea Path, as a shared path from Takapuna to Westhaven.

¹ Note for reasons that follow in this letter it is Movement's contention that the Decision was made in August 2021 and probably well before that

² The term 'active modes of transport' as Movement understands it, refers primarily to cycling and walking but includes the use of scooters, e-scooters, e-bikes and the like.



6. By early 2021, despite SkyPath having obtained a resource consent six years earlier, little actual progress had been made by WK in making it, or any other form of active mode access across the AHB, a reality.
7. It was against that background that, in early 2021, the Minister of Transport asked WK about the possibility of accommodating active transport on the existing AHB, in other words reallocating space on the AHB for cycling and walking.³
8. By this time WK's preference was for the construction of a stand-alone structure across the Waitemata for active modes. That preference was formally resolved by the WK board at a board meeting held on 25 March 2021, at which meeting it was also resolved by the WK board to not support further investigating structural additions to the AHB for provision of long term walking and cycling access.⁴
9. In a Ministerial Briefing Note dated 11 May 2021, from WK by General Manager, Transport Services, Mr Brett Glidden ("Mr Glidden"), to the Minister of Transport,⁵ reallocating lanes to active modes was positively ruled out for reasons of congestion and public safety and because it would apparently cause an *increase* in CO2 emissions. No evidence, modelling or expert reports were cited in support of those statements or WK's position and it would appear that none existed at that time.

2 June 2021 - AHB rally

10. On 30 May 2021, prompted by perceived inaction on the part of WK, a significant number of Aucklanders on foot and bike spontaneously accessed two lanes of the AHB for a brief period of time. Shortly thereafter the Government announced the WK plan to construct a stand-alone bridge for cyclists and walkers.

Early June 2021-Traffic Impact Assessment ("TIA")

11. In early June 2021, presumably in response to that direct action of Aucklanders and the Minister's earlier request to consider the reallocation of lane(s) to active modes of transport, WK commissioned, on an urgent basis, a report from Auckland System Management Alliance ("ASM") as to the likely impact on traffic flow, both over the AHB, and on the wider Auckland road network, that allocating space on the AHB to active modes of transport would have.
12. ASM is an alliance between HEB Construction Ltd, Fulton Hogan Ltd, two significant reading and infrastructure companies, and WK, which was formed, on 30 June 2019, following the disbandment of the Auckland Motorway Alliance. In other words, WK

³ Note the request made in "early 2021" is referenced in WK ministerial briefing note (BRI -2665) dated 6 August 2021. Movement has made a LGOIMA request for *all* communications in 2021 between the Minister and WK relating to the reallocation of a lane or lanes of the AHB to active modes of transport, which will no doubt result in the supply of the Minister's early 2021 request, but as at time of writing this letter that information, including the early 2021 request, has yet to be supplied.

⁴ See WK board minutes of 25/3/21-resolutions

⁵ At para's 27 and 28

commissioning a report from ASM, is to essentially commission a report from itself and two of the country's biggest beneficiaries of road and infrastructure building.⁶

13. ASM provided WK with a report dated 24 June 2021, entitled '*Auckland Harbour Bridge Active Mode Provision-Traffic Impact Assessment*'("TIA").
14. The TIA modelled the likely impact on traffic movement both on the AHB and on the wider road network of 11 different options for reallocating one or two lanes of the AHB to active modes of transport, either on a temporary basis (Sundays only ticketed event) or a permanent basis (24 x 7). Four of the 11 options it looked at were temporary and seven were permanent.
15. The TIA compared the maximum vehicle carrying capacity of the AHB in each option with the current traffic levels. It then applied a single demand reduction scenario to each option, selected from one of four levels of traffic demand reduction (ranging from low to high) due to people walking and cycling, using public transport instead of using private vehicles or re-routing in their private cars.
16. It concluded that the reallocation of one or two AHB lanes, either on temporary or permanent basis, would, for all options being looked at under an assumed traffic reduction scenario, likely have a negative impact on network resilience and customer journey reliability.⁷ In other words would increase traffic congestion.
17. For the reasons that follow in this letter it is Movement's contention that the TIA is fundamentally flawed in its approach and methodology and further has been misinterpreted and/or used selectively by WK to justify its Decision not to trial the reallocation of a lane to lanes of the AHB to active modes of transport.

Later June/ early August 2021 - Resolve Interim Findings, Mr Gliddon's presentation to the Minister, the Resolve Report, the Ministerial Briefing

18. Shortly after receiving the TIA, at some point in late June/ early July 2021, WK commissioned, again in haste, a report from Resolve Group Ltd ("Resolve"), as to the viability or otherwise of reallocating a lane or lanes of the AHB to active modes of transport either on a temporary (weekend) or permanent (all week) basis.
19. Resolve, like ASM, has a close and long standing relationship with WK, with, for example, senior Resolve staff having been seconded to WK for extended periods.
20. Resolve, relying on ASM's TIA, and the modelling it contained, provided WK, initially, with an Interim Findings Report, which essentially copied and pasted the various TIA models showing the increase in congestion that ASM said would be caused by the reallocation of lane(s).

⁶ Note there were and are appropriately qualified and experienced traffic modellers available in NZ which are not so closely aligned with WK and/or invested in the construction of roads and associated infrastructure.

⁷ Pg 42, first para

21. On 12 July 2021, with Resolve's main report then 80% complete, the Interim Findings Report was used as the basis for a presentation by Mr Gliddon to the Minister of Transport, presumably in response to the Minister's inquiry earlier in the year about the possibility of reallocating lane(s) of the AHB to active modes.
22. The presentation itself was apparently not recorded or minuted at the time it was given but it is clear from a later ministerial briefing note from Mr Gliddon to the Minister that summarises it,⁸ that Mr Gliddon steered the Minister away from the idea of reallocating a lane or lanes to active modes. He did so on six grounds; structural implications, width and gradient challenges (one lane options), health and safety concerns, significant network implications (increased congestion), restrictions for larger vehicles and operational challenges.⁹
23. Mr Gliddon recommended the holding of one-off events on the AHB for active modes instead of reallocating lane(s) to them, which he acknowledged *"was far from delivering the level of service being sought by delivering an interim solution"*¹⁰ i.e the reallocation of AHB space for cycling and walking as the Minister had enquired about earlier that year.
24. The Resolve Report was completed in early August 2021 and seems likely to have informed Mr Gliddon's Ministerial Briefing Note of 6 August 2021.
25. It is Movement's contention, for reasons that follow in this letter, that the Resolve Report, like the TIA and, to some extent, *because* of the TIA, was also flawed in its approach and methodology and, like the TIA, has also been used selectively and/or misinterpreted by WK in the advice that it gave the Minister and to wrongly justify its later Decision not to trial the reallocation of lane(s) to active modes.
26. It should be noted that Mr Gliddon's Ministerial Briefing Note of 6 August 2021 concluded;

*"While use of the lanes on the AHB is an operational matter and decisions ultimately fall with the WK Board, WK recognises the significance of this and the upcoming decisions of the Government and community. **We will therefore wait for your feedback before a decision is sought from the Board.** [emphasis added]*

*WK is committed to working closely with you to identify and deliver a suitable interim solution."*¹¹

19 August 2021 -WK Board Meeting -decision not to reallocate lanes made

⁸ BRI-2265 dated 6 August 2021

⁹ Supra para 12

¹⁰ Supra para's 17 and 18

¹¹ Supra para's 19 and 20

27. On 19 August 2021, while apparently waiting for feedback from the Minister on the reallocation of lane(s) to active modes, WK's board met. In attendance at the meeting was Mr Glidden. The minutes of that meeting record the following;

*"Amongst other things, the Board noted and discussed that a decision is pending from the Minister on the future of the AHB crossing. While the Northern Pathway as currently planned may be stopped, an alternative form of crossing (such as barge or ferry) may be implemented in the interim. **Alternatives such as reallocating lanes for walking or cycling have been ruled out over safety concerns**" [emphasis added].*

28. That would appear to be a very clear decision by WK's Board, despite not having yet received feedback from the Minister, *not* to reallocate lane(s) to active modes. The decision would also appear to have been based solely on 'safety' grounds, just one of the six grounds given by Mr Glidden at his 12 July 2021 presentation to the Minister.

1 October 2021 formal request by Minister to WK for it to consider trialling the reallocation of lanes

29. On 1 October 2021, the Minister, seemingly ignorant of the decision already made by WK, at its board meeting of 19 August, not to reallocate lane(s), wrote to Sir Brian Roche, the Chair of WK's board, saying;

"Subject: Walking and cycling trial across the AHB

Dear Sir Brian

Thank you for Waka Kotahi's engagement over temporary trials for walking and cycling across the Waitemata Harbour.

Earlier this year I asked the agency to investigate this, and in August, the agency communicated that the Auckland Harbour Bridge was not designed for a walking and cycling function and there are a range of complex issues that need to be balanced if a trial was to go ahead.

*We continue to recognise the importance of better pedestrian and cycling access across the Waitemata. Given any trials going ahead are a decision for the WK Board, **I'd like the Board to seriously consider if a temporary trial could occur over the quiet summer holiday months or a long weekend if it can be done safely.** [emphasis added]*

It will take time to investigate options to create a connection for walking and cycling across the Waitemata, so this is a way we can show progress on the issue for Auck/landers.

/ look forward to being updated on the Board's decision.

Thank you again for this and your continued work with local government partners to expand New Zealand's walking and cycling network.

Yours sincerely

*Hon Michael Wood
Minister of Transport"*

2 October 2021-Minister scraps proposed stand-alone cycle way

30. On 2 October 2021, in response to mounting political and public pressure, the Minister scrapped the proposed stand-alone active mode bridge that had been announced shortly after the protest rally of 30 May 2021.
31. In summary, at this point, there was, once again, no clear way forward for active mode access over the Waitemata. It seems probable that the Minister's written request to WK of the previous day to *"seriously consider"* trialling the reallocation of lane(s) to active modes was a consequence of that.

22 November 2021 Investment and Delivery Committee Paper and 23 November 2021 WK Board meeting

32. On 22 November 2021, Mr Glidden sponsored a paper to WK's Investment and Delivery Committee ("IDC").
33. The paper appended the Minister's letter to Mr Roach of 1 October 2021 and recorded the purpose of the paper as being;

*"To inform a board decision in response to a request from the Minister of Transport to consider whether a walking and cycling temporary access trial on the AHB could occur over the quiet summer months or a long weekend provided it could be done safely"*¹²

34. The paper then went on to say that based on investigations undertaken earlier in the year, presumably by ASM and Resolve, *"the only viable option"* for use of lanes for active modes was for one-off events such as the Auckland Marathon.¹³ That is not what either the TIA or Resolve Report said.
35. The paper said further that modelling suggested a dedicated single walking and cycling lane would require a significant reduction, greater than 17,000 vehicles per day, in daily traffic volumes to have a neutral effect on the wider Auckland transport system which, it said, was much greater than could be achieved through the provision of walking and cycling access on the bridge alone.¹⁴ Similarly this assertion was not supported by either the TIA or the Resolve reports and it is not clear where it came from.

¹² First para under heading 'purpose'.

¹³ Pg 2 para 2 under heading 'Background'

¹⁴ Pg 2 para 6

36. The paper said further that *"undertaking a trial, as the Minister has requested, could set unrealistic expectations around the likelihood of a dedicated lane becoming available in the short term"*.¹⁵
37. It is unclear why WK would not want to create an expectation of a lane becoming available to active modes in the short term particularly if the proposed trial was held and was successful i.e. resulted in minimal adverse, or indeed positive, effects on traffic congestion, transport emissions, travel choice and accessibility, etc.
38. The rest of paper focused on the management of one-off events of the type that Mr Gliddon had recommended to the Minister in his presentation of 12 July 2021.
39. Minutes of the IDC meeting held on 23 November 2021 more or less adopt the paper of 22 November 2021 and note that *"a trial is not possible... but the opportunity to hold an event had been explored ..."*. The IDC recommended that the Board note that such an event *"is not a trial that would set an expectation that further consideration will be given to live lane access"*.
40. WK's Board fully adopted the IDC recommendations in its meeting the following day, 24 November 2021.¹⁶

3 to 8 December 2021-further Ministerial inquiries about a 'trial', WK's response about an 'event'

41. On 3 and 6 December 2021 there are e-mails from the Minister's office requesting updates on the proposed walking and cycling trial(s) over the AHB. There appears to have been a meeting between WK and Ministerial staff on 6 December.

42. The e-mails are responded to by WK in a ministerial briefing dated 8 December 2021 which records;

"Following your meeting with officials on 6 December you requested an update on holding a walking and cycling event...."[emphasis added]

43. In fact the Minister had requested an update on the holding of a 'trial' not an 'event'.
44. The WK briefing then goes on to say that the Minister's letter of 1 October 2021 had requested an 'event'.¹⁷ In fact the Minister's letter of 1 October 2021 had asked that serious consideration be given to a temporary trial, not an event.

15 December 2021 appearance by WK before parliamentary select committee

45. On 15 December 2021, WK's Chair, Sir Brian Roache, its CEO, Nicole Rosie and Mr Gliddon presented to the Infrastructure Select Committee and in answer to questioning

¹⁵ Pg 2 para 8

¹⁶ See WK board meeting minutes of 24 November 2021

¹⁷ MIN 3767-para 1

from the Committee, said among other things, that no loading restrictions were required for the AHB in the foreseeable future and that there had been little or no growth in traffic on the AHB in recent times and that traffic had lessened over the preceding year with Covid.

46. They also said that converting a lane for active modes *"was considered but not practical ... ruled out"* (Gliddon).¹⁸ This obviously pre-dates what WK now maintains was the date of the Decision, being the following day, 16 December 2021.

15 December 2021 IDC Paper and 16 December 2021 WK board meeting ("the Decision")

47. An IDC Paper, dated 15 December 2021, again sponsored by Mr Glidden records;

*"The Minister has requested that WK explore whether a walking and cycling opportunity on the Auckland Harbour Bridge could occur over the summer months or a long weekend provided it could be done safely"*¹⁹

48. That phrase was taken directly from the Minister's letter of 1 October 2021 except, notably, the word *"trial"* in the Minister's letter has been replaced with the word *"opportunity"*. A trial and an opportunity are obviously not the same, the former connotes testing for a purpose, the latter, a one-off event.

49. The IDC minutes dated 15 December 2021 appear to be a copy and paste of the IDC paper of the same date and the WK Board Minutes of 16 December 2021 appear to be a copy and paste of the minutes of 24 November 2021. WK maintains that its decision not to trial the reallocation of lane(s) to active modes i.e the Decision, was made at its board meeting of 16 December 2021²⁰.

50. Movement contend that, based on any reasonable assessment of WK's internal documents as above, trialling the reallocation of lanes or lanes of the AHB to active modes was never seriously considered by WK at all and, to the extent that it was considered, it was formally discounted at the board meeting of 19 August 2021.

Statutory/ regulatory and policy framework relevant to the Decision

51. Before setting out the proposed grounds for judicially reviewing the Decision it is necessary to highlight key aspects of the statutory/ regulatory/ policy framework which Movement maintains should have, but didn't, inform WK's processes when coming to the Decision not to trial the reallocation of lane(s) of the AHB to active modes.
52. There are a significant number of acts, regulations, plans, policy statements, programmes, projects, statements of intent, vision statements and other policy

¹⁸ https://www.facebook.com/watch/live/?ref=watch_permalink&v=605225934018823 at minutes 48-52

¹⁹ Pg 1 para 3

²⁰ See WK's e-mail to Movement dated 18 May 2022, pg 4, para 3

documents²¹ that relate directly to transport and an even greater number that relate to it peripherally.

53. It is not appropriate or possible to set them all out in this letter. What can be done however is highlight some major, interrelated, themes which run through them, these include;

- Mode shift - the strong emphasis on shifting people out of private cars and into or onto other modes, such as public transport and active modes.²²
- Mode neutrality - that is when making transport related decisions, not favouring one mode of transport, for example the private car, over other modes, such as cycling and walking.
- Decreasing carbon emissions produced by transport.²³
- An underlying requirement for WK, when making decisions, to exhibit a sense of social and environmental responsibility and to act in a transparent way.²⁴

Grounds for review of the Decision

54. Against the above factual and legal background Movement claims that the Decision was illegal, unfair and unreasonable. I will expand on each of these in turn.

Illegal

55. There is clear evidence, as set out above, that WK senior staff and board members had decided against trialling the reallocation of space on the AHB to active modes, well before the official Decision date of 16 December 2021. In other words the Decision, when it officially came, had been predetermined or, to use the language of Judicial Review, was clearly the rigid application of pre-determined policy.

56. The Decision was illegal because in coming to it WK failed to take into account and/or gave inadequate consideration to mode shift, that is the need to shift people out of private cars and into other modes such as active modes.

57. The Decision was not mode neutral in that it clearly favoured the perceived needs of private car owners, referred to in the TIA as '*customers*' and their trips as '*customer journeys*', with the obvious inference being that cyclists and pedestrians are not customers.

²¹ The writer compiled a non-exhaustive list of over 20

²² See for example the Government Policy Statement ("GPS") on Transport, WK's Keeping Cities Moving and Toitū Te Taiao, and ATAP's Better Travel Choices which states "Reallocating space to more efficient and less polluting modes is necessary to enable the city centre to achieve its potential as a driver of Auckland and New Zealand's economic prosperity."

²³ See for example GPS and the Government's Emissions Reduction Plan which requires a 20% reduction in light fleet VKT.

²⁴ Note given specific statutory recognition in s96 of the Land Transport Management Act 2003

58. Did not take into account, at all, the extent to which reallocating a lane or lanes to active modes might decrease carbon emissions, no reports were commissioned on this issue and the reports that were commissioned conspicuously don't mention it. There is an early claim by WK, unsupported by evidence, that reallocating a lane will increase carbon emissions. That claim, although clearly absurd, does reveal all too well WK's willingness, from the start, to find reasons why reallocating a lane couldn't be done rather than find ways that it could be.
59. Did not exhibit a sense of social and environmental responsibility, for the reasons just given, and was not transparent. It was not transparent because when the documentary record is examined, as it has been above in this letter, it is clear that WK were opposed to the trial reallocation of lane(s) to active modes from the start and never intended at any time, or at the very least, were strongly predisposed not to consider it seriously, as the Minister had requested.
60. What WK did was to give the Minister the appearance of considering the trialling of the reallocation of lane(s) to active modes whilst very unsubtly steering him away from the idea and then with a sort of Kafkaesque slight of hand changing the idea completely from a trial (i.e. testing for a purpose) to an event.
61. The Decision is based on multiple mistakes of fact. The expert reports that it commissioned and on which it allegedly based the Decision were flawed and even though flawed were still misinterpreted by WK, perhaps 'selectively interpreted' might be a better term, and they were misrepresented by WK to the Minister.
62. Some of the reasons that the TIA was flawed /misinterpreted/ misrepresented are;
- a. Bias/ conflict of interest. ASM is not an independent expert in that the organisations that comprise it stand to benefit from the construction of significant new infrastructure but will benefit very little, if at all, from using what's already there.
 - b. The assessment;
 - assumes active modes trips are equally distributed across 24 hours when obviously they would not be;
 - compares *average annual* daily walking and cycling trips with *weekday* traffic demand;
 - does not account for vehicle trips made at different times, more locally, or not taken at all.
 - c. It is based on the now widely discredited 'Bathtub Theory' that was created by an American economist, not transport planner or traffic engineer, and compares cars entering and exiting a road system to water being poured into a bath through a tap and flowing out of the bath through the plug. There is now a wide spread

acceptance that this model is inaccurate to the point of being practically useless and that car drivers (people) are not like water in a bath but adapt to change in many different and complex ways, generally too complex for computer models to predict.

- d. The report states that timeframe for carrying out its assessment was very limited²⁵ and that the need for brevity meant only one demand reduction scenario, conveniently the lowest one, could be plotted for each option²⁶. For example, the TIA failed to present option 3 (reallocated single lane on the east of the AHB) under traffic demand reduction levels 2, 3 and 4- as requested by NZTA staff²⁷.

Had that been done, as Movement has, it would have shown that at traffic reduction level 3, even using the TIA's conservative assumptions²⁸ which it recognises are dubious²⁹, there would be neutral impact and, at level 4 virtually no congestion. This is alluded to briefly in the TIA³⁰ but does not feature in WK's recommendations to its Board or in its communications with the Minister.

- e. The TIA assumes³¹ that the unexpected loss of a lane caused by a traffic incident would have the same effect as the reallocation of a lane to active modes. This conclusion ignores the reduction in demand that occurs due to behaviour change in response to a known reallocation (and availability of the new transport option to walk or cycle) but which does not occur with an unexpected incident. The conclusion is therefore, self-evidently incorrect.
- f. It does not model what the Minister has actually asked for being a temporary trial in the quieter months. It models temporary reallocation (Sunday only) and permanent reallocation (all week). Again this is not mentioned internally in WK communications or to the Minister.
- g. The report contains a number of other obvious errors e.g. demand reduction level 4 was applied to option 9 in the belief that it provided a walking/ cycling facility of 5.4m however it is only 2.7m wide.

63. Some of the reasons that the Resolve Report was flawed /misinterpreted / misrepresented are;

- a. It relies entirely on the TIA and therefore perpetuates the same errors and flaws, including that it does not actually report on what the Minister has asked for, being a trial of the reallocation of lane(s). It like the TIA was prepared in haste.

²⁵ Pg 32

²⁶ Pg 32

²⁷ OIA-9820 (Part 2) Attachment 24

²⁸ Waka Kotahi is required by the Emissions Reduction Plan to reduce light fleet Vehicle Kilometres Travelled by 20%

²⁹ Pg 22-27 and OIA-9820 (Part 2) Attachment 8

³⁰ Pages 31 and 32

³¹ Pg 42

- b. Is similarly not from a genuine independent expert. Genuine expert reports do not need to tell the reader that it is 'unbiased' as the Resolve Report does on several occasions. It is implicit in any genuine expert report that it is unbiased.
- c. The report focuses on highlighting the risks of each of the reallocation options rather than the solutions. It does not mention at all the risks of *not* trialling reallocation e.g. never knowing whether it will work and whether road space reduction will be offset by demand reduction through mode shift etc.
- d. Despite its generally negative view of the possible reallocation of lane(s), it does still acknowledge that *"impact on the wider motorway and local road networks is highly dependent on the demand reduction assumed"* and that *"a significant change in motorist behaviour could result in minimal network impact"*.³² These unknowns are of course exactly what a trial would reveal i.e would be the purpose of the trial.
- e. It was required to refrain from recommending a preferred option but concludes with the expectation that NZTA would be selecting the preferred option for further development. It also acknowledges that all reallocation options are possible with appropriate mitigation of risk.³³
- f. The Resolve Report failed to acknowledge that the ASM's report "Concept of Logistics -AHB Active Modes" found Option 3a to be operationally viable.³⁴

64. Apart from a brief mention of all options being possible in WK's ministerial briefing note of 6 August 2021, the overwhelming message internally in WK and from WK to the Minister is that the *only viable option* was for one-off events i.e not a trial.

Unfair

65. The Decision was unfair for many of the reasons, set out above, that it was illegal.

66. In addition there was no consultation with the wider Auckland community and no consultation with any groups representing active modes of transport, such as Movement and Bike Auckland. These groups have access to experts and a significant body of expert literature and materials particularly relating to mode shift, the benefits of trials, and the like.

67. Given the many, many years that groups such as Movement and Get Across and Bike Auckland having been struggling to achieve active mode access across the harbour they have a legitimate expectation that they will be consulted by WK regarding Decision making around active mode access across the harbour. They should have been consulted

³² Pg 29

³³ Pg 29

³⁴ OIA 9820 (Part 2) Attachment 17

and their views should have been taken into account by WK before the Decision was made.

Unreasonable

68. The world is facing an existential crisis through climate change. Carbon emissions from transport are a significant contributor to that crisis. No reasonable decision maker could or should have rejected the opportunity to at least trial non carbon emitting active modes on a central link in a large city's transport network.
69. The Minister's request for a trial was a gilt edged opportunity for WK to break away from the narrow, car centric, thinking that has characterised it for most its existence and actually *do* something significant about climate change.
70. Had the Decision been to trial the reallocation of a lane, as it should have been, and had it been successful, as it could very well have been, not only would the major missing gap in Auckland's cycling and walking network have been filled for relatively modest cost, but Auckland and New Zealand could have joined the many other major cities around the world where active modes have successfully been permitted to cross significant bridges once reserved for cars only.

Conclusion

71. Could WK please seek appropriate legal advice and reply to this letter within three weeks, that is by **Friday, 22 July 2022**.
72. If WK indicates that it will reconsider the Decision, and in accordance with an agreed timetable, engage with genuinely independent experts with a brief to explore ways in which a trial of active modes can be carried out, rather than to provide reasons why it cannot be, and properly consult with groups representing active mode transport users, then Movement will consider not applying for a judicial review of the Decision.
73. If WK stands by the Decision not to undertake a trial for active modes then Movement will be applying for a judicial review of that Decision without further notice.

Yours faithfully



Michael Lloyd