

28 January 2014

Stephen Davis
fyi-request-1397-734bb072@requests.fyi.org.nz

Dear Mr Davis,

Local Government Official Information and Meetings Act 1987
Re: CAS-170762-W6R6T1

I refer to your email dated 10th January 2014, requesting information for legal advice or analysis relating to the pedestrian rights-of-way page on our Auckland Transport website.

Unfortunately, this page was created before Auckland Transport came into existence on 1 November 2010, and it has remained unchanged since that time. We are therefore unable to identify any particular information held by Auckland Transport that relates to the drafting of this page.

However, having considered the page in light of your request, one of our transport law specialists has provided the following comments which may provide you with the information that you are interested in.

Section 319(1)(f) of the Local Government Act 1974 specifies that Councils (which for this purpose includes Auckland Transport) can determine which part of a road is to be a carriageway or a footpath. Section 331 of that Act covers the concept of “vehicle crossings” – places constructed to allow for vehicles to be driven across a footpath to allow access between the carriageway and properties that adjoin a road.

The primary law relating to the interaction of vehicles and pedestrians is the Land Transport Road User Rule 2004.

The obligations for pedestrians to stay on footpaths where these are provided and to cross roadways at designated crossing places and to do so at right angles and as quickly as possible are all set out in clause 11 of the Land Transport Road User Rule 2004. These obligations make it clear that vehicles have the right of way over pedestrians on the part of a road that is laid out as roadway. (In legislation the terms “roadway” and “carriageway” both mean the part of the road intended for vehicles.)

Where the entry into an adjoining property is laid out as an intersection of two roadways rather than as a vehicle crossing (for example where the raised footpath ends at a kerb rather than continuing at the same level) the obligations on pedestrians to give way to vehicles applies because the footpath ceases at the edge of the roadway.

In the case of a vehicle crossing that cuts across a footpath without having a kerb edge on each side, the right of way belongs to pedestrians rather than vehicles. A vehicle crossing is an area of a road that it is intended that both pedestrians and vehicles will use. As such it is covered by the definition of a “shared zone” in clause

1.6 of the Land Transport Road User Rule 2004. Clause 10.2 of that Rule states that the driver of a vehicle must give way to a pedestrian in a shared zone, however it also notes that pedestrians must not unduly impede the passage of vehicles in shared zones.

It is also to be noted that the New Zealand Transport Agency (NZTA) road code on line states “When you are entering or leaving a driveway that crosses a footpath, you must give way to people using the footpath.” Having considered these matters we are satisfied that the information displayed on the Auckland Transport website page that you have referred to provides a useful summary of the rights of way of pedestrians and vehicles on different parts of formed roads.

You have the right in accordance with section 27(3) of the Local Government Official Information and Meetings Act 1987 (LGOIMA) to make a complaint to the Office of the Ombudsmen if you are not satisfied with our response.

Yours faithfully,



Randhir Karma
Manager Road Corridor Operations