Ministry of Transport
TE MANATŪ WAKA

BRIEFING

Vulnerable Users and Pathways package – updated Cabinet paper and preliminary Regulatory Impact Assessment

Reason for this briefing	The briefing explains the changes made to draft papers we provided to you last week for the *Vulnerable Users and Pathways* package. Attached are copies of the updated Cabinet paper and a preliminary Regulatory Impact Assessment for Ministerial and cross-party consultation.
Action required	Circulate the attached updated Cabinet paper (seeking approval to consult on draft rules) and preliminary Regulatory Impact Assessment and submit for Ministerial and cross-party consultation.
Deadline	Monday, 18 June 2018.
Reason for deadline	The deadline allows for Ministerial and cross-party consultation and finalisation of the papers in order to lodge them with Cabinet Office on Thursday, 28 June 2018, for the meeting of the Cabinet Economic Development Committee on 4 July 2018.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
[redacted]	Senior Adviser, Mobility and Safety	[redacted]	✓
Joanna Heard	Acting Manager, Mobility and Safety	[redacted]	

MINISTER'S COMMENTS:

Privacy

Date:	15 June 2018	**Briefing number:**	OC180260
Attention:	Hon Julie Anne Genter (Associate Minister of Transport)	**Security level:**	In-Confidence

Minister of Transport's office actions

☐ *Noted* ☐ *Seen* ☐ *Approved*

☐ *Needs change* ☐ *Referred to*

☐ *Withdrawn* ☐ *Not seen by Minister* ☐ *Overtaken by events*

Purpose of briefing

1. This briefing details the changes made to the *Vulnerable Users and Pathways* package (the Package). The changes reflect your feedback from the meeting with officials on Wednesday, 13 June 2018 and departmental consultation.

2. The updated Cabinet paper and preliminary Regulatory Impact Assessment are attached for you to review and share with your colleagues for Ministerial and cross-party consultation.

3. We have provided both a 'tracked change' and an updated version of both the Cabinet paper and preliminary Regulatory Impact Assessments, so you are more easily able to identify where changes have been made.

Redrafted proposal to give priority to footpath, shared path, and cycle path users

4. Following our meeting with you, we have redrafted Proposal 5 of Chapter 2 of the preliminary Regulatory Impact Analysis. In the previous draft, Proposal 5 was to:

    4.1. *Adopt a rule change that gives priority over turning traffic to footpath, shared path and cycle path users travelling straight through across any side-road that does not have specific traffic control devices that restrict path user priority in favour of roadway users. Required devices might include give way or stop signs and markings, and limit lines facing path users about to cross a side-road.*

5. In the new version of the preliminary Regulatory Impact Assessment, Proposal 5 now reads:

    5.1. *Adopt a rule change that requires drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users (when those users are crossing or have the intention of crossing the side road).*

6. We propose to test both the current Proposal 4 and the redrafted Proposal 5 during consultation.

7. The Cabinet paper reflects that we will consult on the revised Proposal 5 above, as well as the existing Proposal 4. Proposal 4 enables Road Controlling Authorities to give precedence to footpath, shared path and cycle path users, when signage is provided to indicate that turning vehicles must give way.

8. We are currently seeking sign off of these changes from our internal RIS Panel. We also plan to undertake a final review and update of the preliminary Regulatory Impact Assessment to improve readability next week, whilst Ministerial and cross-party consultation is occurring.

Targeted consultation before the rules are drafted

9. At our meeting with you, we agreed that targeted consultation as soon as Cabinet has agreed to the Package would give us an extra opportunity to engage with the most affected user groups. This would include Disabled Persons' Organisations and walking and cycling stakeholders. This was strongly supported by departments, especially those with interests in disability issues, who felt that consulting on draft rules may give an incorrect impression that final decisions on the scope of possible changes had already been made.

10. We have therefore amended the Cabinet paper to include a recommendation that officials carry out targeted consultation with affected groups prior to drafting of rules for consultation. This feedback will be included in the draft rules and covering documents as appropriate. We would not expect this approach to delay rule drafting, as there will be a delay before formal

consultation could occur, that is dependent on the availability of Parliamentary Counsel Office.

Departmental consultation

11. We consulted with, and received feedback from: ACC, Department of the Prime Minister and Cabinet, Local Government New Zealand, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, New Zealand Police, New Zealand Transport Agency, Office for Disability Issues, Te Puni Kokiri, Treasury, and WorkSafe New Zealand.

12. All organisations consulted supported the proposals being used as the basis for consultation and were generally supportive of their intent. However, several departments raised concerns about the lack of consultation so far in the process, especially with the disability sector. We have noted this risk in the updated Cabinet paper and addressed it by making clear these are policy proposals for consultation and that there will be targeted consultation, as mentioned above.

13. The other main changes to the Cabinet paper resulting from departmental consultation are largely to add detail for those not familiar with the relevant existing legislation and to clarify exactly what is in, and out, of scope of what we are proposing.

14. An extra paragraph has been added to the enforcement section of the paper, highlighting Police's concerns over increased expectation of enforcement once the changes have come into effect.

15. We also made a number of other minor changes to clarify language and improve the flow of the paper.

Next Steps

16. In order to ensure that the attached final Cabinet paper and preliminary Regulatory Impact Assessment are considered by Cabinet by early July, the following timeline has been developed:

Step	Date
Final Cabinet paper provided to Ministers	15 June 2018
Ministerial and cross party consultation	18 – 26 June 2018 (7 working days)
Ministry makes any final changes following consultation	26 June 2018
Lodge Final Cabinet paper	28 June 2018
Cabinet paper considered by Cabinet Economic Development Committee	4 July 2018

17. Officials will prepare a communications package, which will be ready for proactive release once Cabinet decisions have been made. We expect there will be media interest in the proposals and it will be important to send a clear message around the positive impacts that the Package is intending to make for all users and that this is an initial consultation to ensure any changes are appropriate and have the intended impacts.

18. Officials will also prepare speaking points for you to take to Cabinet.

Recommendations

19. The recommendations are that you:

(a)	**review** the attached updated Cabinet paper and preliminary Regulatory Impact Assessment	
(b)	**agree** to circulate the updated Cabinet paper and preliminary Regulatory Impact Assessment for cross-party and Ministerial consultation by Monday, 18 June 2018 to allow for lodgement with Cabinet Office on 28 June 2018	Yes/No
(c)	**note** the redrafted Proposal 5, giving priority to footpath, shared path, and cycle path users at uncontrolled side roads, has been added as an option to be consulted on in the Cabinet paper	
(d)	**note** that departmental feedback has been incorporated in the final Cabinet paper and preliminary Regulatory Impact Statement	
(e)	**note** that the Cabinet paper seeks agreement to targeted consultation with affected user groups before the rules are drafted	
(f)	**note** that officials are preparing a communications package for you, and speaking points for your use at the meeting of the Cabinet Economic Development Committee.	

Joanna Heard
Acting Manager, Mobility and Safety

MINISTER'S SIGNATURE:

DATE:

In Confidence

Office of the Associate Minister of Transport

Chair
Cabinet Economic Development Committee

ACCESSIBLE STREETS PACKAGE – SEEKING AGREEMENT TO CONSULT ON A DRAFT RULE

Proposal

1. This paper seeks Cabinet Economic Development (DEV) Committee's agreement to proceed to public consultation on a draft amendment rule for the Accessible Streets Package (the Package).

Executive summary

2. The Package is a collection of rule changes supporting the strategic objectives of the draft Government Policy Statement on Land Transport 2018 (the GPS) to improve people's access to social and economic opportunities and safety when using the transport system.

3. Cabinet was informed about these potential rule changes in a March 2018 paper. This paper outlined the planned programme of key short to medium-term initiatives to improve road safety in New Zealand [DEV-18-MIN-0025 refers].

4. One of the initiatives identified was a package of amendments to land transport rules to improve the safety of vulnerable users[1] to make walking, cycling and public transport safer and more accessible. This has since been renamed as the "Accessible Streets Package".

5. Making it easier for people to walk, cycle or use public transport in towns and cities helps to improve overall access, by providing people with more efficient, low-cost alternatives to private car travel. A number of transport rules, however, deprioritise the movement of these modes of transport and the safety of people using them. The Package addresses some of this misalignment between our transport rules and our transport priorities.

6. This paper seeks agreement to undertake public consultation on a package of proposed amendments to land transport rules and regulations.

7. This Package includes changes that aim to:

    7.1. clarify the rules around what types of vehicles should be allowed on footpaths and under what conditions

[1] In the GPS and the Safer Journeys road safety strategy, vulnerable users include pedestrians, cyclists, motorcyclists and the mobility impaired.

7.2. improve the safety of vulnerable road users at intersections and in traffic

7.3. mandate a minimum overtaking gap for motor vehicles when passing cyclists on the road

7.4. give scheduled passenger buses priority when exiting bus stops on urban roads.

8. Parts of the Package, such as what types of vehicles should be able to use the footpath, are likely to create a high level of interest with the public and with particular interest groups. It is important to emphasise public consultation will take place on these changes before the Package is finalised. I expect a thorough and robust consultation process. Careful consideration will be given to the views of all stakeholders during the consultation process.

9. If Cabinet agrees to the proposed Package, and to proceed to public consultation on amendments to land transport rules, I will issue drafting instructions to the Parliamentary Counsel Office to prepare a draft amendment rule to be released for consultation later in 2018. I also propose to commence targeted consultation, with sector groups prior to the Rule being drafted.

10. If significant changes are required as a result of either consultation processes, I will return to Cabinet prior to making the rules. A package of communications materials will be developed before any amendments can come into effect to ensure that the changes achieve new behaviour norms. I anticipate any amendments will come into force in mid-2019.

Background

11. In March 2018 I sought Cabinet agreement to a paper Improving Road Safety in New Zealand [DEV-18-MIN-0025 refers]. Along with the development of a new road safety strategy, the paper set out a planned programme of key short to medium-term initiatives to improve road safety.

12. One of the initiatives identified was a package of amendments to land transport rules to help make walking, cycling, and public transport safer and more accessible. This paper describes that package of amendments and seeks agreement to undertake public consultation on a draft amendment rule to give effect to these proposals.

The Accessible Streets Package

13. The Package is a collection of rule changes that supports the new focus in the GPS of prioritising improving New Zealanders' safety and access to economic and social opportunities. In particular, it aims to support a mode shift for trips in urban centres from private vehicles to more energy efficient, low-cost and healthier modes like walking, cycling and public transport. It will also support other government agencies, such as the Ministry of Health, to increase value for money and reduce overall public spend by increasing the uptake of transport modes, which improve health and wellbeing.

14. The proposed changes also give effect to recommendations from the 2014 Cycling Safety Panel's report *Safer journeys for people who cycle,* and respond to the report

from the Transport and Industrial Relations Select Committee on the petition of Joanne Clendon in May 2016 [2014/59] on children cycling on the footpath.

15. While these are a collection of small changes I expect that they will collectively improve access and safety, especially for people cycling as well as other vulnerable road users. They will also improve reliability of public transport. The Package is also broadly consistent with a number of the United Nations Sustainable Development Goals.

16. The primary changes are amendments to the Land Transport (Road User) Rule 2004 (the Road User Rule) and the Land Transport (Traffic Control Devices) Rule 2004. Consequential amendments to other land transport rules and to the Land Transport (Offences and Penalties) Regulations 1999 will also be required.

17. The Package is comprised of four parts and will amend rules to:

    17.1. clarify what types of vehicles, if any, should be allowed on footpaths, and under what conditions

    17.2. improve the safety of vulnerable road users at intersections and in traffic

    17.3. mandate a minimum overtaking gap for motor vehicles when passing cyclists on the road

    17.4. give scheduled passenger buses priority when exiting bus stops on urban roads.

Clarifying the rules around what types of vehicles should be allowed on footpaths, and under what conditions

18. I propose to consult on amendments to the Road User Rule to address inconsistencies, complexity and over-prescription in the rules governing the use of footpaths.

19. The current rules governing our footpaths do not reflect how they are used in the real-world and do not necessarily prioritise the safety of people using them.

20. For example, 86 percent of child cyclists, between 7 and 15, have ridden on the footpath and most are unaware this is illegal.[2] At the same time mobility devices capable of travelling up to 35km/h can legally use the footpath.

21. “Footpath” is defined in the Road User Rule as a path or way principally designed for, and used by, pedestrians. Rules relating to cycleways and shared paths do not require rule amendments to achieve the aims of the Package. Cycleways are classified as part of the roadway, and operate much more like a normal lane. Shared paths have developed, at least in part, to legalise the use of bicycles on specific sections of footpath.

[2] This is according to a recent survey by the Office of the Children’s Commissioner: http://www.occ.org.nz/assets/Publications/Children-Riding-Bikes-on-Footpaths-submission2.pdf.

22. I propose to consult on amendments to the Road User Rule to introduce a framework that will allow vehicles[3] to use the footpath that:

    22.1. do not travel faster than 10km/h[4] (to ensure safety to others sharing the footpath)

    22.2. are not wider than 750mm (to enable multiple users to still access the footpath)

    22.3. are operated in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right of way to pedestrians[5].

23. The framework outlined above comprises general and easily understood requirements that are a mixture of principles (users must behave in a certain way), performance (vehicles must not exceed a specified speed) and prescription (be no larger than a specified size). The framework will still allow Councils to make bylaws that adjust the above constraints on the use of footpaths in their areas. For example, Councils may wish to exclude some powered devices from footpaths in busy urban areas or in areas with especially narrow footpaths, or set different maximum speeds as local conditions allow.

24. While the proposed changes will, in some cases, legitimise currently illegal use of the footpath, they will set clear expectations about what safe use of footpaths looks likes. This is especially the case for children cycling on the footpath, which is widespread, but currently prohibited. The proposed change would enable the use of most bicycles on the footpath, subject to the proposed speed limit and behavioural requirements, regardless of the age of the rider.

25. The Package also intends to clarify what types of mobility devices may be used on the footpath. It may also restrict some larger mobility devices, such as those that look more like a small car and would exceed a prescribed width requirement.

26. Using clear criteria should also enable the rules to work for new and emerging technologies, including potential future small driverless delivery vehicles that might operate on the footpath for some, or all, of their journey. The framework will allow these vehicles to use the footpath where they are of a size and behave in a manner which is appropriate for the footpath.

27. I will also maintain existing exemption powers under land transport legislation, that will allow the NZ Transport Agency the discretion to exempt certain classes of vehicles. In addition, I will consult on whether there are certain classes of vehicle, such as electric wheelchairs and other medically required mobility devices, that should be automatically excluded from this requirement. The NZ Post's Paxster small electric delivery vehicles also currently operate under a provision that allows mail delivery services to operate motor vehicles on the footpath. They are expected to be exempted

[3] Non-powered wheelchairs, prams, baby buggies and similar devices are not legally "vehicles" and would not be affected by any of these requirements. Existing provisions that prevent vehicles that can be registered for use on the road, such as motor bikes, mopeds or cars, from using the footpath would continue.
[4] 10km/h is about the speed young children naturally cycle at and is about twice walking speed. It is intended to be a slow speed. There is currently no maximum speed for any user of the footpath.
[5] Users of non-powered wheelchairs are legally considered pedestrians.

from any minimum width requirements under the proposals, but would still need to comply with the proposed speed limit of 10km/h when on the footpath.

28. I am conscious that the changes may impact on particular owners of certain mobility devices[6] which are currently unregulated. Existing mobility devices may exceed the proposed criteria for maximum width and some owners may no longer be able to use their devices as these could not be (legally) used on the road either. This restriction may have a negative impact on public accessibility, participation and independence of some users. These concerns will need to be balanced against the potential for improved safety for other users of the footpath.

29. It is unclear what numbers of vehicles that current use the footpath would be impacted by the proposed width restriction. Officials will seek feedback on the number of these users through the consultation process. I will consider whether there need to be any special transitional arrangements for these users.

30. I will also undertake targeted consultation with particular sector groups prior to the Rule being issued for consultation. Specifically, I want to test the proposals on the widths of devices. If needed following the targeted consultation, I will consider drafting minor or technical amendments in line with the policy intent of the Package.

Removing barriers to walking, cycling and public transport

31. I propose to consult on a number of rule changes to improve access and safety for people walking, cycling and using public transport. The proposed amendments are intended to address situations where people walking, cycling or taking public transport are given less priority compared to people using cars, or to enable existing road user behaviour that is safe but currently illegal.

32. I propose to consult on amendments to rules to:

    32.1. legitimise the practice of cyclists riding straight ahead from a left-turn lane

    32.2. allow cyclists to carefully pass slow-moving or stationary motor vehicles (‘undertake’) on the left (unless the motor vehicle is indicating a left turn)

    32.3. give cyclists and buses priority over left turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively (as they currently have on an unseparated cycle lane)

    32.4. give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road.

33. Attached as Appendix 1 are graphic descriptions of the above proposed rule changes.

34. I propose to consult on two options for the rule change to give priority to people using footpaths, shared paths and cycle paths, as described in 31.4 above. The two options are to adopt either a rule that:

[6] ‘Mobility devices’ are currently allowed on the footpath. These devices must meet specified maximum power requirements and be designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment. The user does not need to meet any criteria.

34.1. requires drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users, when those users are crossing or have the intention of crossing the side road; or

34.2. enables Road Controlling Authorities to give precedence to footpath, shared path and cycle path users, when signage is provided to indicate that turning vehicles must give way.

35. I could limit consultation to the option in 34.2, which would allow Road Controlling Authorities to implement this change where they consider it appropriate. However, I consider that it would be beneficial to seek public feedback on the benefits of a more substantive change, and the public's readiness for such a change, as outlined in 34.1 above.

36. It is important to note that officials have yet to provide detailed analysis of the costs and benefits of option 34.1. However initial analysis provided in the preliminary Regulatory Impact Assessment notes the potential risk that there may be a temporary increase in pedestrian and cyclist deaths and serious injuries while drivers adjust to the new rule. As a similar level of priority is given to path users in many other similar other jurisdictions, including in Australia, Europe and many states in America, I am confident it can be implemented in New Zealand. However, should targeted consultation with affected stakeholder groups raise substantive concerns regarding this option I intend to remove it from the options on which I publicly consult.

37. Making clearer rules around the priority of cyclists travelling straight ahead at side roads will support and simplify the development of urban cycleways. Improving cycling safety is a critical part of increasing active travel in New Zealand and physical activity is associated with a wide range of health benefits. Improving the safety of vulnerable users and increasing the provision of cycling infrastructure are both priorities in the GPS.

38. These rule amendments are expected to increase cyclist safety by helping to reduce conflict between cyclists and motor vehicles. They will also improve cyclist visibility, while also legitimising already wide-spread practices of many cyclists.

Mandating a minimum overtaking gap for vehicles passing people cycling

39. I propose a rule change to require minimum overtaking gaps for vehicles passing cyclists in New Zealand. I propose to amend the Road User Rule to mandate a 1 metre minimum overtaking gap at, or under 60km/h and 1.5 metres when travelling at over 60km/h. A number of other jurisdictions have similar rules, such as New South Wales, Queensland and many states in America.

40. Nine percent of cyclist crashes in New Zealand between 2008 and 2017 involved overtaking vehicles. These types of crashes are much more likely to be fatal than other types, with 20 percent of fatal cyclist crashes involving overtaking vehicles. The proposal is consistent with the Cycling Safety Panel's 2014 report, which made a recommendation that New Zealand should introduce a trial of a minimum overtaking gap rule change.

41. As the preliminary Regulatory Impact Assessment recognises, the case for mandating a minimum overtaking gap is finely balanced. Some international evidence shows that mandatory minimum overtaking gaps lead to measureable safety benefits for cyclists

by reducing the number of dangerous close passes. However, such a rule can be difficult to actively enforce.

42. A rule change would help to clarify the current legal situation where cyclists are involved in accidents with overtaking motor vehicles, by providing an explicit offence. A mandated minimum overtaking gap rule may also, arguably, make a stronger case for prosecution of cycling fatalities for dangerous driving, if it can be proven that the closeness of the vehicle passing the cyclist was a cause of the crash.

43. This change would set a clear expectation about what a safe, minimum passing distance is by legitimising what is currently a guideline and by raising awareness of this practice.

44. While the evidence is finely balanced, I believe that, in line with the GPS and the consideration of Vision Zero in the development of a new road safety strategy, I should lean on the side of safety, particularly for such a vulnerable user group.

45. An education campaign would be implemented alongside this rule change to raise awareness of correct passing distances between drivers and cyclists. This would ensure all drivers were aware of the appropriate passing distances.

46. While New Zealand does not currently implement trial rules, I will closely monitor the impact of the rule change and make any adjustments as required.

Giving buses priority when exiting bus stops in urban areas

47. I propose to consult on a change to rules that would give buses legal priority when leaving a designated bus stop on a road with a posted speed limit of 60km/h or less. Currently other drivers do not have to give buses priority when buses pull out from bus stops and back into the flow of traffic. This has become an increasing problem in Auckland but a law change would also benefit other urban centres, especially Wellington and Christchurch. Bus drivers would still be required to indicate for three seconds and otherwise behave in a safe manner before pulling out.

48. Giving way to buses leaving a bus stop is currently only considered a courtesy. When this courtesy is not extended, it creates delays for buses as they wait for a suitable break in traffic or for other road users to provide a gap for merging back into the traffic flow. If this delay is repeated many times on a bus route it significantly impacts on travel time reliability, and the efficient operation and perception of public transport.

49. This rule change would come at a small cost to other motorists, in time lost. It has a low safety risk, would provide a time benefit to bus passengers and operators, promote public transport and reduce confusion over who should give way. The change is intended to signal that public transport has priority in traffic flows, as buses are carrying more people than cars. It shows the Government's broader support for the increased use of public transport to reduce congestion in urban areas.

Risks

50. The Package is likely to create media and public interest (including potential diverse views from some sector groups). Issues around the use of the footpath and the equal treatment of people cycling are likely to be contentious among different interest groups, particularly those concerned about safety impacts for existing footpath users.

A communications package is being developed to support the consultation process and to manage the communications risks.

51. Most of the proposed changes are intended to set new norms in behaviour, or in some cases, legitimise existing practices. A national public education campaign will be key to ensuring that the desired behaviour changes actually occur. Also key will be considering how the changes relating to footpaths could be supported through other measures such as the NZ Transport Agency's footpath design guidelines.

52. There is a shortage of data about the current use of the footpath, especially by disabled users and users of mobility devices. Some groups may argue there is insufficient evidence about the effects of the changes. I will use the consultation process to work with relevant organisations to try to collect this information.

53. All of the options, but especially those relating to potential speed limits for vehicles using the footpath and minimum overtaking gaps for cyclists, create an expectation of enforcement. It is highly likely that Police would not have the resources to prioritise enforcement of any of these proposals ahead of Police enforcement on the roads. The public could reasonably have the expectation of enforcement of these rules, and it is likely that Police will receive complaints and calls for service. There is a risk that trust and confidence in Police, and citizen satisfaction, could be adversely affected because of enforcement expectations not being met. However, despite these risks Police support the proposed Package.

Stakeholder views

54. This paper seeks agreement to consult on the Package of proposed rule changes. There has been no formal consultation with any groups so far. In some cases, targeted, initial consultation has been undertaken as part of research projects that ultimately led to the development of the Package and, where relevant, the views of stakeholders from this phase have been reflected in this paper and in the preliminary Regulatory Impact Assessment.

55. Diverse views are expected from consultation on the Package. I know that some stakeholders, such as some disabled person representatives and pedestrian advocates may be opposed to changes regarding footpath use. Heavy vehicle operators may also oppose the minimum overtaking gap rule changes as they may consider them impractical to comply with. However, I expect most groups are likely to react positively to most elements of the Package.

Next Steps

56. If Cabinet approves the proposed Package for public consultation, I will issue drafting instructions to the Parliamentary Counsel Office, in order to enable a draft amendment rule to be published for consultation in September 2018.

57. I propose that once Cabinet has approved the package for consultation, and before I formally consult on a draft Rule, officials carry out targeted consultation with key affected groups. This feedback can then be included in the final draft rules and in the covering documents that will go with them.

58. I am also seeking authorisation to make decisions, consistent with the overall policy proposals in this paper, on any minor issues that arise during the course of drafting the changes and as a result of the targeted consultation process.

59. Officials will prepare a communications package, which will be ready for proactive release ahead of public consultation in September. I expect there will be media interest in the proposals and it will be important to send a clear message that the proposed changes are intended for consultation. Feedback will be taken into account to support any decisions on final rule changes.

60. I propose not to return to Cabinet before making the amendment rule to give effect to the Package unless consultation identifies significant changes to the Package, or there are other issues that require Cabinet's attention.

61. A timeline will be developed for the preparation and delivery of an education campaign prior to the implementation of the Package. I anticipate that the Package would come into effect in mid-2019.

62. Consequential changes to the Land Transport (Offences and Penalties) Regulations 1999 will be required to address any offences and penalties that need to be amended or prescribed. Once these have been identified, a Cabinet paper addressing any changes will be prepared for consideration by the Cabinet Legislation Committee.

Consultation

63. The following departments were consulted on the development of this paper: ACC, Department of the Prime Minister and Cabinet, Local Government New Zealand, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, New Zealand Police, New Zealand Transport Agency, Office for Disability Issues, Te Puni Kokiri, Treasury, and WorkSafe New Zealand.

64. All organisations consulted supported the proposals being used as the basis for consultation and were generally supportive of their intent. However, several departments raised concerns with the lack of consultation, especially with the disability sector.

Financial implications

65. There are no financial implications from this Package.

66. An education campaign is needed to support the implementation of parts of the Package. Implementation of the education campaign is contingent on funding, which will be sought from the National Land Transport Programme.

Human rights implications

67. There are no human rights implications arising from the proposals in this paper.

Legislative implications

68. The Land Transport (Road User) Rule 2004, the Land Transport (Traffic Control Devices) Rule 2004 and the Land Transport (Offences and Penalties) Regulations 1999 will need to be amended to implement the changes proposed in the Package.

69. Consequential amendments may also be required to other land transport rules to give effect to the proposals in this paper.

Regulatory Impact Analysis

70. The Regulatory Impact Analysis requirements apply to this Package and a preliminary Regulatory Impact Assessment has been prepared and is attached.

71. The preliminary Regulatory Impact Assessment has been reviewed by the Ministry of Transport's Regulatory Impact Assessment Panel as partially meeting the quality assurance criteria. It was not able to be assessed as meeting the quality assurance criteria because the proposals are yet to be consulted on and the analysis has not been finalised.

72. The initial analysis in the preliminary Regulatory Impact Assessment will be used to support the development of draft Rules and tested throughout the consultation process.

73. A final Regulatory Impact Assessment will be prepared before any amendment to rules are signed. It will be published on the Ministry of Transport's website.

Transitional arrangements

74. Once the Package is agreed, transport officials will develop an implementation plan, including identifying any necessary transitional arrangements.

75. The implementation plan will also map out the development and timing of education and information campaigns around rule changes. I anticipate that the Package would come into effect in mid-2019.

Gender implications

76. No gender implications were identified by officials during the development of the proposals in this paper.

Disability perspective

77. The Package proposes to change the types of vehicles that will be allowed on the footpath. It is recognised that the proposed changes may disproportionately impact people with disabilities, whose reliance on the footpath is higher than other parts of the population. These proposals may affect both current users of mobility devices, whose use may be constrained compared to under current legislation. It may also affect those with limited visibility, who may be at risk from any changes to the use of the footpath.

78. I will work with disability organisations and other stakeholders during both phases of consultation to ensure their feedback is appropriately incorporated and any identified risks are minimised.

79. If the proposed Package is implemented, the Ministry of Transport will work with the NZ Transport Agency, the Office for Disability Issues, and disability organisations to monitor and respond to any change in the level of services for people with disabilities, should it be necessary.

Publicity

80. The NZ Transport Agency will prepare a communications plan for the release of the draft amendment rule, as part of the normal rule making process.

81. A separate communications plan will also be developed for the final Package of changes once agreed.

82. I intend that this paper and the final Regulatory Impact Assessment, reflecting the feedback from consultation, will be publicly released on the Ministry of Transport's website.

Recommendations

83. The Associate Minister of Transport recommends that the Committee:

1. **agree** to proceed to public consultation on a draft amendment rule for the Accessible Streets Package.

2. **agree**, subject to consultation, that the conditions under which vehicles operate on the footpath are that they:

    2.1. do not travel faster than 10km/h (to ensure the safety of others sharing the footpath);

    2.2. are not wider than 750mm (to enable multiple users to still access the footpath); and

    2.3. are operated in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right of way to pedestrians.

3. **agree**, subject to consultation, to improve the safety of vulnerable road users at intersections by:

    3.1. allowing cyclists to ride straight ahead from a left-turn lane;

    3.2. allowing cyclists to carefully pass slow-moving motor vehicles ('undertake') on the left (unless the motor vehicle is indicating a left turn);

    3.3. giving cyclists and buses priority over left turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively (as they currently have on an unseparated cycle lane);

    AND EITHER

    3.4. requiring drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users, when those users are crossing or have the intention of crossing the side road;

    OR

    3.5. enabling Road Controlling Authorities to give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road at specific locations where the required traffic control devices are installed.

4. **agree,** subject to consultation, to mandating a minimum overtaking gap for motor vehicles when passing cyclists on the road of 1 metre at or under 60km/h and 1.5 metres when travelling at over 60km/h.

5. **agree,** subject to consultation, to giving scheduled passenger buses priority when exiting bus stops on roads where the posted speed limit is 60km/h or less.

6. **invite** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to develop a draft amendment rule to give effect

to the Accessible Streets Package and proceed to public consultation on the draft amendment rule.

7. **agree** that officials will carry out targeted consultation with affected groups prior to drafting of rules for consultation and that this feedback will be included in the draft amendment rule as appropriate.

8. **authorise** the Associate Minister of Transport to make any necessary editorial or minor policy changes that arise during the drafting of the amendment rule prior to its release for public consultation.

9. **agree** that I will not return to Cabinet before making the amendment rule unless consultation identifies significant changes to the Package, or there are other issues that I wish to bring to Cabinet's attention.

10. **agree** that the Ministry of Transport publish this paper on its website as part of the rule making process.

11. **note** that the initial analysis in the preliminary Regulatory Impact Assessment will be used to support the development of draft Rules and will be tested throughout the consultation process.

12. **note** that a final Regulatory Impact Assessment will be prepared before any amendment to rules are signed. It will be published on the Ministry of Transport's website.

13. **note** that communication plans will be prepared for the release of the draft amendment rule, as part of the normal rule making process and for the final Package of changes once agreed.

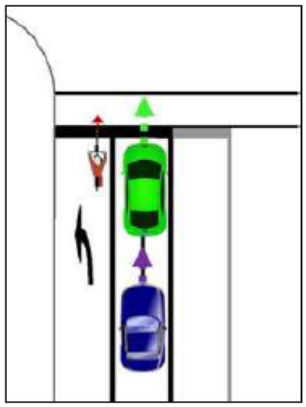
14. **note** that an implementation plan will be prepared that will map out the timing for bringing the amendment rule into force and for the required education campaigns on rule changes.

Hon Julie Anne Genter
Associate Minister of Transport

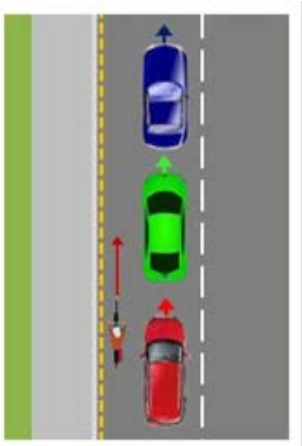
Dated: _____

Appendix 1: Graphic descriptions of proposed straightforward rule changes to improve the safety of vulnerable road users

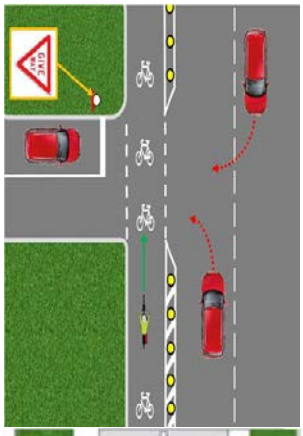
Legitimise the practice of cyclists riding straight ahead from a left-turn lane



Allow cyclists to carefully pass slow-moving or stationary motor vehicles (‘undertake’) on the left (unless the motor vehicle is indicating a left turn)



Give cyclists and buses priority over left turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively (as they currently have on an unseparated cycle lane)



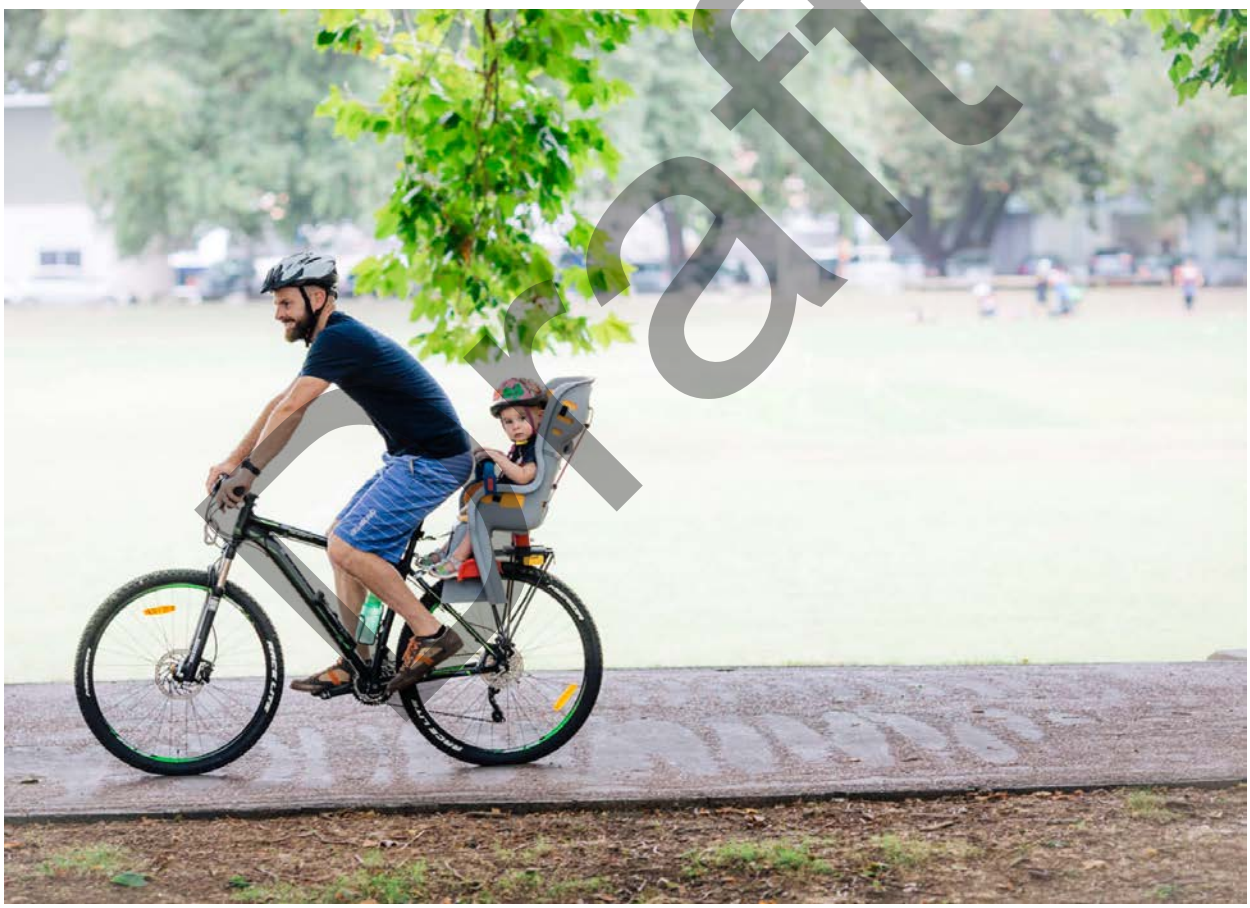
Give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road.

Preliminary Regulatory Impact Assessment

Accessible Streets Package

25 June 2018

Version 2.3



Ministry of Transport
TE MANATŪ WAKA

NZ TRANSPORT AGENCY
WAKA KOTAHI

Table of Contents

General information

Purpose

The Ministry of Transport and NZ Transport Agency are jointly responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing:

- key policy decisions to be taken by Cabinet; and
- stakeholders to be consulted on a government exposure draft of planned legislation.

Key limitations or constraints on analysis

This is a preliminary regulatory impact assessment prepared for the purpose of public consultation on the proposed Accessible Streets Package. Accordingly, a number of gaps in information, particularly in the quantification of benefits and costs, are highlighted throughout the analysis. A full regulatory impact assessment incorporating stakeholder perspectives will be prepared post-consultation. Further evidence and information gathered through consultation could impact on the analysis and preferred options in the full regulatory impact assessment.

The package of changes is limited to changes to land transport rules and regulations. A number of different options were considered when developing the package. One option was a package of more substantive changes, which would have included reviewing the vehicle classification system. This would have investigated wider concerns with how devices such as e-bikes and small electric vehicles are classified and regulated. This option is not preferred at this time as it would require changes to primary legislation to amend definitions and this would significantly delay delivery timeframes. A more substantial set of potential changes to the vehicle classification system will be explored in 2018/19.

Specific limitations identified in the analysis include:

- Further, cost-benefit analysis for changes to use of the footpath will be completed following public consultation.
- A lack of international evidence around implementation and evaluation of effectiveness at improving safety for some of the options.
- Implementation costs have not yet been fully considered or costed across all preferred options. This will be completed following public consultation when final recommendations are developed.
- There is very limited data available about the current usage of footpaths by different user groups, such as the disabled, or current users of mobility devices. As far as possible this will be addressed during the consultation phase.

Responsible Manager (signature and date):

Joanna Heard
Acting Manager, Mobility and Safety
Ministry of Transport
Signature:  Date: 25 June 2018

Accessible Streets Package

Objectives and assessment criteria

The *Accessible Streets Package* aims to improve safety and accessibility for vulnerable users of the land transport system. It also aims to improve the reliability of public transport services. It proposes a package of amendments to land transport rules.

Objectives

The package aims to enable safer and more accessible use of the footpath, prioritising vulnerable road users and enhancing public transport efficiency through changes to land transport rules.

The objectives of the package align with the key priorities included in the draft Government Policy Statement on Land Transport 2018 (the GPS). The GPS outlines the Government's strategy to guide land transport investment over the next 10 years.

To reflect the GPS, the package is intended to drive improvements in safety outcomes for all road users, especially vulnerable road users.[1] It also supports access to, and uptake of, active travel modes and public transport.

The package directly addresses the GPS's new focus on improving New Zealanders' access to economic and social opportunities. In particular it intends to support mode shift for trips in urban centres from private vehicles to more energy efficient, low cost modes like walking, cycling and public transport. It will also assist with the goal of reducing harmful transport emissions. It recognises the importance of urban form for creating liveable cities that value public space and improve access.

It also supports the current safe system approach to road safety in New Zealand.

As part of this regulatory impact assessment, a Ministry of Social Development Child Impact Assessment Screening Sheet was filled out to determine whether the proposed package will improve the wellbeing of children and young people.[2] This screening sheet has been attached as Appendix 1.

Assessment criteria

As safety and access are the key strategic priorities for the Government, these have been used as the key assessment criteria for the package.

In assessing the individual elements of the package, greater weight in the decision making framework has been given to the impacts on two aspects. These are the effects of the proposed changes on safety and the impacts of the proposed changes on how they affect

[1] In the GPS, vulnerable users include pedestrians, cyclists, motorcyclists and the mobility impaired.

[2] https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html.

equity and effectiveness of access to the transport network. This reflects the Government's priorities in this area. Practicality and feasibility are also included as assessment criteria, but with a lower weighting. The scale of the weighting varies for the four initiatives, reflecting the differing nature of the individual proposals. The four assessment criteria are:

- Equity: How equitably are the impacts of changes to access and safety distributed to the specified users
- Effectiveness: How does the option maintain or improve access, and the safety of, specified users
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option and how likely is it to be complied with?

Proposed package

The proposed package of amendments consists of:

1. Enabling safer and more accessible use of the footpath by shifting to a more outcome-based regime based on:
    - principles of careful and considerate use and pedestrians having right of way
    - restricting vehicles to a 10km/h speed limit on the footpath and excluding motorcycles and mopeds
    - limiting the maximum width of vehicles to 750mm.
2. Prioritising vulnerable road users by:
    a. enabling cyclists to travel straight ahead from left-turning lanes instead of having to cycle where other traffic may be travelling
    b. enabling cyclists to overtake slow-moving traffic on the left (also known as "undertaking")
    c. enabling cyclists and buses to have priority over turning traffic when they are travelling straight through an intersection on a separated cycleway.
    d. enabling road controlling authorities to specify footpaths, shared-paths and cycle-ways where users have right of way when crossing side roads.
3. Making space for cyclists by:
    a. a behaviour change campaign that builds on the "See the person, share the road" campaign
    b. mandating a minimum overtaking gap for motor vehicles passing cyclists
4. Bus egress:
    a. giving scheduled passenger buses priority when pulling out from bus stops in areas where the posted speed limit is less than 60km/h.

Chapter 1: Enabling safer and more accessible use of the footpath

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation

The policy opportunity is to make better use of footpaths to improve land transport safety and accessibility for vulnerable users. For the purposes of this analysis, vulnerable users are defined as users of the land transport system who are not in or on a registered class of motor vehicle.[3]

Under the current framework only pedestrians, users of mobility devices and wheeled recreational vehicles can use the footpath. Other vulnerable users who could use the footpath, but are currently not allowed to, include cyclists and people using new and emerging vehicles that do not properly belong in the current mobility device or wheeled recreational vehicle categories.

There are a range of potential new and emerging vehicles that could seek to use the footpath that are not currently addressed under existing regulation. These include a range of increasingly automated vehicles, from self-guiding mobility scooters to fully driverless delivery vehicles. Decisions need to be taken on whether these kinds of vehicles can be used on the footpath. Their uncontrolled use may negatively impact on other vulnerable users.

Who is currently allowed to use the footpath?

Pedestrians are generally accepted to be the primary users of the footpath. By definition a 'footpath' means a path or way principally designed for, and used by, pedestrians.[4] The term 'pedestrian' includes people on foot and in or on a 'contrivance equipped with wheels or revolving runners that is not a vehicle'.[5] In practical terms this includes wheelchairs that are not propelled by mechanical power and permits the use of a range of everyday items such as pushchairs and shopping trundlers.[6]

Two types of vehicle are currently allowed on the footpath:[7]

- Mobility devices – defined as devices that are designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or

[3] Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, reg. 5.

[4] Land Transport (Road User) Rule 2004, r 1.6 (definition of a footpath).

[5] Land Transport (Road User) Rule 2004, r 1.6 (definition of a pedestrian).

[6] Land Transport Act 1998, s 2 (definition of a vehicle).

[7] Land Transport (Road User) Rule 2004, r 1.6 (definition of a wheeled recreational device).

neurological impairment; and are powered solely by a motor that has a maximum power output not exceeding 1,500 watts.

- Wheeled recreational devices – defined as wheeled conveyances (other than a cycle that has a wheel diameter exceeding 355mm) that are propelled by human power or gravity. A wheeled recreational device also includes a conveyance with one or more auxiliary propulsion motors with a combined maximum power output not exceeding 300 watts. This includes vehicles such as scooters, skateboards and in-line roller skates with or without small motors. Cyclists are otherwise not permitted to ride on the footpath.[8]

Mobility devices must use a footpath unless doing so is impractical. Currently, there are no restrictions on the width of a mobility device. There are no restrictions on where a wheeled recreational device can be used.

Lastly, a person is permitted to ride a cycle, moped or motorcycle on a footpath in the course of delivering newspapers, mail, or printed material to letter boxes. However, mopeds or motorcycles can only be used if the relevant Road Controlling Authority has authorised the use of the footpath for that purpose.[9]

Known issues with the current system

The rules which govern the use of footpaths and shared paths and vehicle categories are inconsistent, complex and overly prescriptive. For example, most children over six years of age (when they begin to ride cycles with larger wheels) cannot currently legally ride a cycle on the footpath, while adults on electric scooters and electric skateboards along with mobility devices, which can travel up to 35km/h, can. The vehicle on the left is currently allowed on the footpath, while the bicycle to the right is not.

The development in recent years of lightweight and more powerful motors and batteries means that mobility devices have changed from being slow moving, heavy devices that look like simple chairs on wheels to, in some cases, enclosed vehicles that are designed to look like cars. These enclosed mobility devices are becoming increasingly common and there are few controls to ensure their safe use, both for their operators and for pedestrians.

[8] Land Transport (Road User) Rule 2004 r11.11 Riding cycles on footpaths.

[9] NZ Post has a separate and specific exemption to enable them to use their 'Paxster' delivery vehicles on the footpath under tightly controlled conditions.

There are no official statistics on crashes associated with the use of mobility devices on footpaths, but research and media reports indicate they are a growing concern in some communities.[10] Sales of enclosed mobility devices on websites such as Trade Me show a steady increase in sales in recent years.

There is also a concern that the definition of 'mobility device' allows manufacturers to simply assert a vehicle is a mobility device without any evidence as to what makes it such. Some manufacturers appear to be using the term mobility device to bypass existing safety and operating requirements for other vehicle classes. For example, two-wheel electric scooters with 1,200 watt motors that are capable of travelling at speeds of up to 50km/h are being sold in New Zealand as mobility devices.

A further issue is the width of mobility devices. The NZ Transport Agency *Pedestrian Planning and Design Guide* states the minimum width of a new footpath in constrained situations should be 1.5 metres (plus 0.15m for the kerb). New footpaths range in width from the minimum 1.5 metres to 1.8 metres for collector roads and 2.4 metres or more in central business areas and high use areas.[11] Existing footpaths vary in width with examples of 1.1 meter wide footpaths being reported. Larger mobility devices (in some cases over 1 metre wide) reduce footpath accessibility for other users.

Some motorised devices that might aid mobility are not allowed to be used on the footpath because the manufacturer has not explicitly asserted them to be a mobility device. For example, the Segway scooter is not primarily sold as a mobility device and the legality of its use on the footpath is unclear.

Power measured in watts (or kilowatts) is the primary criterion for what vehicles can operate on the footpath under current legislation. A vehicle's power can be relatively easily altered by a vehicle owner, or in some cases can be declared fraudulently. The actual power cannot be determined without highly specialised tools. This has led to the common sale and use of wheeled recreational devices that exceed the 300 watt power limitation.

Current use the footpath by cyclists

Cyclists are currently prohibited from riding on footpaths.[12] However, younger cyclists tend to ride on the footpath for the majority of their trips (with many not knowing this is illegal), and many cyclists use the footpath at some point in their journey in response to road environments which are perceived to be unsafe.[13] At the same time, the safety of both cyclists and pedestrians on

[10] NZ Transport Agency Research Report 621 *Regulations and safety for electric bicycles and other low-powered vehicles*, July 2017.

[11] A NZ Transport Agency research project exploring the effectiveness of the funding, planning, design and maintenance of pedestrian facilities in urban areas is underway. The research is expected to provide recommendations around improvements to support the use of footpaths by pedestrians and is expected to be completed in September 2018.

[12] Land Transport (Road User) Rule 2004, r 11.11.

[13] An Office of the Commissioner for Children survey found that of 86% of the school student respondents who had ridden a bicycle had ridden on the footpath (see page 11, https://www.nzta.govt.nz/assets/Walking-Cycling-

the footpath is compromised because cycle skills trainers feel unable to teach safe footpath cycling, even to children, because footpath cycling is illegal. Without safe places to cycle, people may avoid cycling altogether, resulting in a loss of access to social and economic opportunities and the public health benefits of greater participation in active modes.

Over a 10-year period (2006-2015) the New Zealand Crash Analysis System (CAS) recorded 1,065 cycle crashes on footpaths (note: this is just under 10 percent of all cycle crashes recorded). Two of those were fatal crashes, both of which involved an out-of-control motor vehicle. Fourteen of the 1,065 footpath crashes involved a pedestrian. Seven of those 14 resulted in serious injury (none were fatal).[14] Over the same 10-year period, 90 people were killed while cycling on our roads. Approximately a quarter of people killed or injured in traffic crashes while cycling were aged 10-19 years.

Perceived safety is also a concern. The health and environmental benefits generated by walking and cycling participation may be diminished by perceived danger or discomfort caused by faster modes sharing limited space on paths or roads.

The perceived danger posed by irresponsible cycling on the footpath (or shared paths) can scare pedestrians and may inhibit their walking activity. This is a particular concern for vulnerable pedestrians, such as older people, blind people, people with or low-vision or deaf or hearing impaired walkers.[15] Bigger and/or faster cyclists have the potential to generate greater levels of discomfort for pedestrians when a close pass occurs. Of the footpath cycling crashes where cyclist age is recorded in CAS, 80 percent involved cyclists over the age of 15 years.

Cycling to school has become increasingly unpopular as traffic volumes have grown over the last 30 years.[16] The perceived dangers of cycling on the road lead many people to cycle on the footpath in situations where the road environment includes fast and/or heavy traffic. A recent survey by the Office of the Children's Commissioner found that 86 percent of child cyclist respondents (aged 7-15 years) had ridden on the footpath, and 71 percent were not aware that was illegal. Seventy percent of all children surveyed supported a law change to allow them to cycle on the footpath.[17]

On 2 May 2016, Petition 2014/59 of Joanne Clendon was referred to the Transport and Industrial Relations Select Committee. The petition concerned current rules around cycling on footpaths,

and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf). Auckland Regional Transport Authority (ARTA) did some surveying that showed a very high level of footpath cycling by children (around 80%). NZ Police regularly issue fines to adults for cycling on the footpath. Between February and July 2014, 521 cyclists were handed $55 fines for riding on a footpath or garden bed.

14 There is high under-reporting of pedestrian and cycling crashes in the Crash Analysis System. While CAS data is deeper, the NZ Injury Query System (NIQS) (based on hospital admissions) gives a better picture of the scale of the problem (which is fairly small, but a bit bigger than CAS data indicates) – see https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Addendum-to-the-report-Final.pdf.

15 https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf.

16 Recent Household Travel Survey results show an ongoing decline in children cycling to school. Data and reports on household travel behaviour between 2003-2014, available here: https://www.transport.govt.nz/resources/household-travel-survey/.

17 For a summary of submissions and recommendations from the Children's Commissioner, see http://www.occ.org.nz/assets/Publications/Children-Riding-Bikes-on-Footpaths-submission2.pdf.

and recommended that vulnerable users such as children under 14 years of age (and accompanying adults), seniors over 65, and people with mental or physical disabilities be permitted to cycle on the footpath. On 12 May 2017, the Select Committee presented its report on the petition to the House. The report recommends that children up to and including 12 years of age or Year 8 at school (and accompanying adults) be allowed to cycle on the footpath, as well as seniors over 65, and vulnerable users (such as those with mental or physical disabilities).

Research by Haworth and Schramm (2014) carried out for the Centre for Accident Research and Road Safety in Brisbane (in locations in Brisbane where footpath cycling is legal for all ages) found that adult cyclists tended to be reluctant to ride on the footpath – only 5 percent of all cycling took place on footpaths. The average speed of cycling on the footpath was found to be much slower than on shared paths or roads (11 km/h versus 21 km/h and 29 km/h respectively). Footpath cycling tended to be more popular amongst novice cyclists.

What about shared paths and cycleways?
Road Controlling Authorities can prescribe the use of a shared path or cycleway, where both pedestrians and cycles can use the same infrastructure, by making a bylaw. Currently, shared paths are designated for shared use between cyclists and footpath users.

How is the situation expected to develop if no further action is taken?
There is continued risk of harm to vulnerable users if no action is taken. In the absence of clear regulation, larger mobility devices are becoming more prevalent on the footpath. Similarly, as technology advances and becomes cheaper, scooters, hoverboards and similar devices are becoming faster and more common.

People will also continue to be deterred from cycling if no action is taken, as they can only cycle on the road (or cycleways, which cover a very small proportion of urban streets). This is especially the case for young cyclists, who from around the age of six (when they begin to ride cycles with larger wheels), can currently only legally cycle on the road. On-road cycle skills training is not given to children until their mental and physical abilities are considered to be sufficiently developed – typically by age 10 or 11.

1.2 Who is affected and how?

If action is taken, pedestrians would be encouraged to accept and have to deal with a wider range of users on the footpath.

Users of mobility devices would need to consider other users of the footpath when selecting their devices, specifically by considering how wide their vehicles are and how other users can fit on the footpath when passing.

Users of wheeled recreational devices would have greater flexibility in their choice of vehicle, including the ability to use higher wattage devices, but would need to be considerate of other users, such as by staying below a speed limit.

Cyclists would have increased access to the footpath and, like users of wheeled recreational devices, would need to be considerate of other users, possibly by staying below a speed limit.

Manufacturers, importers, distributors and retailers of mobility and wheeled recreational devices would need to adapt to a new regime, as would people who already own vehicles that may not fit within a new set of requirements.

It is unclear if fully automated delivery vehicles that are intended to operate for some or all of their journey on the footpath will become common. The proposed changes do not seek to address the specific issues of how automated delivery vehicles might be regulated. However, as a minimum, if they were to operate on the footpath, automated vehicles would be expected to comply with any requirements for maximum size and speed and to operate with courtesy to other footpath users.

A range of stakeholder groups would have views about regulation affecting the use of the footpath. These would include those representing the disability sector, older people, and advocates for walking and cycling. These are discussed below.

Depending on the weight of various devices using the footpath there may be increased maintenance costs for road controlling authorities that maintain these.

1.3 Are there any constraints on the scope for decision making?

Ministers have directed the Ministry of Transport that the Accessible Streets Package needs to progress quickly with policy decisions in mid-2018 and Rule changes within the 2018/19 financial year. These requirements exclude options that require changes to primary legislation, specifically the Land Transport Act 1998.

A range of anomalies concerning e-bikes relating to current power-rating based requirements are out of scope.

Changes to primary legislation are out of scope. A further and more significant review of issues associated with road use and vehicle classifications, which will include potential changes to primary legislation, is currently under development.

Interdependencies
The proposed package will feed into the new Road Safety Strategy which the Government is developing. It also makes up a part of a broader Vulnerable Road Users work stream, which includes a gap analysis of current central and local government work underway around walking and cycling and other vulnerable users.

Section 2: Options identification

2.1 What options have been considered?

Options:
The options are:

- Option 1: No change
- Option 2: Any vehicle, other than one that can be registered to operate on the road (such as a car, motorbike, or moped) can be used on the footpath if it travels less than

10km/h[18], is less than 750mm[19] wide, and where the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users (preferred option).

- Option 3: Only pedestrians and authorised mobility device users are allowed to use the footpath – no other wheeled vehicles at all. This option would involve the creation mobility device user authorisation process and framework. Elderly and disabled users would likely qualify for authorisation.
- Option 4: Status quo plus cycling on the footpath for children up to 12 years of age (and accompanying adults), seniors over 65, and people with disabilities. The use of bicycle bells is mandatory and local authorities can, on a reasonable basis, exclude certain footpaths from being used for cycling (Select Committee recommendation)
- Option 5: Any vehicle can use the footpath, provided the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users

In all options, Councils would have additional powers to make bylaws to limit access for any types of vehicles from footpaths in designated locations.

Criteria:

- Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians, users of mobility devices, cyclists, and other users?
- Effectiveness: How does the option maintain or improve accessibility for, and the safety of, users?
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1: No change

Pros –

- There are existing rules which set out how all users should operate on the footpath and these have largely worked for most users.

Cons –

- There is currently wide-spread non-compliance and limited enforcement of the current framework, as it is not clear or fit-for-purpose. Due to developments in technologies which have led to new types of devices, the current rules which regulate footpath usage are complex and inconsistent. Currently children from about the age of six years old cannot legally ride on the footpath, while the NZ Police do not recommend that they ride on the road until the age of 10. Users of large and powerful enclosed mobility devices

[18] The speed of 10km/h is proposed because it is roughly twice an average walking pace, it is an easily understood round number, and is intended to indicate that slow travel is required. There is also evidence that children naturally cycle at around this speed, as mentioned above.

[19] The width requirement of less than 750mm is based on the size of what we understand to be a standard wheeled mobility device. It is understood there may be other vehicles, such as mountain bikes, that are wider than this. Powered wheelchairs are proposed to be excepted from this rule. We will seek this feedback on the 750mm requirement during the consultation phase.

are not specifically regulated and a range of devices are potentially prevented from use, simply because they were not considered when the laws were developed.

Option 2: 10km/h, 750mm wide, behaviour component (preferred option)

Pros –

- This option sets a principle-based framework for who, and what vehicles, should be allowed to use the footpath. It requires a slow speed, a width of vehicle which is compatible with general footpath design in New Zealand, and guides users to give way to pedestrians and to behave in a careful and considerate manner that does not constitute a hazard.
- Improved accessibility for cyclists, especially younger cyclists, may mean that cycling trips become feasible when they were previously perceived as too dangerous. An increase in cycling will have health, traffic congestion and environmental benefits.
- As many cyclists use the footpath already anyway (children predominantly cycle on the footpath, and many adults use sections of the footpath for parts of their journey where they feel in danger on the road), this change would align the rules with current behaviour, ensure the rules for footpath use are clear, and enable cycle skills trainers to prepare novice riders for the risks associated with footpath cycling.
- Prescribing a slow footpath speed limit will mean many cyclists are likely to continue using the road/cycleways under most circumstances, ensuring a continued focus on improving on-road cycling infrastructure.
- Prescribing a slow footpath speed is intended to reduce the risk from impact with cyclists, mobility devices and other motorised users, especially with vulnerable users of the footpath such as the elderly or people with disabilities.
- Prescribing a maximum width for mobility vehicles will ensure that the use of footpaths are limited to vehicles that can readily fit on New Zealand footpaths and that would more often be able to pass other mobility vehicle users.

Cons –

- Allowing anyone to cycle on the footpath may mean people walking on the footpath feel and are less safe, especially vulnerable users, such as the elderly and people with disabilities. It is difficult to estimate how great this risk is. However, the risk could be mitigated by the speed limit, improved courtesy of cyclists through targeted training, greater social interaction and passive surveillance.
- Allowing everyone to cycle on the footpath could undermine the promotion and expectation of safe cycling on the road. This is expected to be offset by the slow speed limit imposed on footpaths, ensuring many cyclists continue to ride on the road or cycleways in most circumstances.
- There is a risk that cyclists are criticised by motorists for using the road when they are able to use the footpath. This risk is expected to be offset by the slow speed limit imposed on footpaths.
- Mobility devices and other motorised devices may be driven on the road, illegally, so that they can travel faster than 10km/h, exposing the occupant to greater safety risks, especially from motorists in vehicles.
- There are practical challenges with enforcing a speed limit where most of the vehicles do not have speedometers. Also, existing speed detection devices are known to be less accurate at low speeds. Given the historic low level of enforcement activity directed at

footpath use, there is a risk that vehicles will be operated at speeds above the proposed 10km/h once their use on the footpath is legitimised, particularly if policing is not visible.

- People who have purchased mobility devices that are wider than 750mm may not be able to continue to use them and could suffer financial and physical hardship.

Implications

- Option 1 effectively makes all footpaths shared. Road Controlling Authorities will invest in designated shared path infrastructure where higher speeds can be safely permitted and there will be a presumption that all users are equal unless otherwise indicated (removing the need for a right of way for pedestrians). Road Controlling Authorities could be given the power to set a higher speed limit for designated shared paths where this is appropriate and specific signage is in place. An upper limit will be considered during consultation; at this stage 30km/h is being explored.
- Another implication is whether Road Controlling Authorities should be able to access funding assistance for footpath infrastructure from the National Land Transport Programme as part of the cycling network.
- Additionally, it is noted that the Select Committee report recommended that bells be made mandatory for any bicycle used on footpaths or shared paths. Following the principles set out in the Government's expectations for the design of regulatory systems, specifically the expectation to achieve the least adverse impact on individual autonomy, it is proposed that a general principle of considerate behaviour matched with a social marketing campaign to promote the use of bells by cyclists should achieve the objective of safe shared use of the footpath. If this is found to be inadequate it could be provided for through a subsequent change, such as through the annual Regulatory Stewardship Rule process.

Option 3: Only pedestrians and authorised mobility device users

Pros –

- This option would promote safe movement on the footpath for all pedestrians. It would particularly benefit more vulnerable pedestrians, and those users specifically authorised to use mobility devices, likely to include such as the elderly, the young, and those with disabilities.[20]

Cons –

- Many current users of the footpath would be required to use the road instead, including mobility device users, such as those on mobility scooters, as well as children on small wheeled cycles and kick scooters. Children on larger wheeled cycles and other less safe cyclists would also still be legally required to ride on the road. In the absence of increased enforcement, it is likely that cyclists and users of other currently legal motorised devices would ignore the requirement, as occurs at present.

[20] Seventy-four percent of pedestrian hospitalisations (and 100% of fatalities) due to crashes that occur on the footpath are due to crashes with motor vehicles, despite them not being allowed on the footpath (driveways, etc). Another 13% of hospitalisations occur due to crashes with cyclists, despite them not being allowed on footpaths. This option leads to improved perceived safety, but does not ensure safety for pedestrians.

- Mobility device users would need to be specifically authorised to use mobility devices on footpaths. This would introduce administrative costs for both users and government.

Option 4: Status quo plus select cyclists (under 12, over 65 and people with disabilities)

Pros –

- This option has similar pros to Option 2, except that cyclists over the age of 12 and under the age of 65 (apart from those with a disability) would not be allowed on the footpath. This option provides for the safety of young children on bicycles by allowing them to ride on the footpath.

Cons –

- This option does not increase the safety of most people between the ages of 12 and 65. Cyclists in this age group are likely to continue to use the footpath illegally. This option discriminates on the basis of age which may not be a good proxy for the safety risk posed by a cyclist and does not address the safety risks associated with adults riding on the footpath at high speed. It does not address the use of newly developed wheeled devices that are not currently legal or being appropriately managed through a lack of clarity in the current Rules. This option is also complicated and non-compliance would be difficult to enforce against.

Option 5: Only a behaviour component

Pros –

- This option allows anyone and any non-road vehicle to operate on the footpath, so long as it operates in a considerate manner, does not constitute a hazard, and gives way to pedestrians. In some instances, given the lack of awareness and compliance with existing laws, this is what is currently happening.

Cons –

- This option does not take into account any size or speed criteria so that, although users must behave considerately, the speed differentials may be so great that the behavioural element is very difficult to comply with. Higher speed devices would likely lead to a greater number of crashes (particularly at driveways) and those crashes are likely to result in more severe injuries. This option also does little to persuade vehicles, which have been designed for the road and not the footpath, to use the road.

Changes to Offences and Penalties Regulations

Any options will require changes to the Land Transport (Offences and Penalties) Regulations 1999. Such changes would include removing riding on the footpath as an offence and make breaking the 10km/h speed limit an offence (if the preferred Option 2 were implemented).

2.2 Which of these options is the proposed approach?					
	Option 1: Status Quo	**Option 2:** 10km/h, 750mm wide, behaviour component	**Option 3:** Only pedestrians	**Option 4:** Status quo plus select cyclists (under 12, over 65 and people with disabilities)	**Option 5:** Only a behaviour component
Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians?	**0**	-	++	-	- - -
Equity: How equitably are the impacts of changes to access and safety distributed to users of mobility devices?	**0**	+	- -	-	+
Equity: How equitably are the impacts of changes to access and safety distributed to cyclists?	**0**	++	- -	+	++
Equity: How equitably are the impacts of changes to access and safety to other users?	**0**	+	- -	-	+
Effectiveness: How does the option maintain or improve access for users?	**0**	+	- -	+	+
Effectiveness: How does the option maintain or improve the safety of users?	**0**	+	+	-	-
Practicality: How enforceable and measurable is the option?	**0**	-	+	- -	-
Feasibility: How acceptable is the option to the public?	**0**	+	- -	++	- -
Overall assessment:	**0**	**2**	**-6**	**-2**	**-2**

Equity and Effectiveness have been given greater weight in the above decision making framework. This weighting reflects the Government's priorities in this area. As indicated in the draft Government Policy Statement on land transport 2018, access and safety are of highest priority.

The proposed approach is **Option 2**: Any vehicle can be used on the footpath that travels less than 10km/h, is less than 750mm wide, and where the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft.

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties	Some vehicles currently sold as mobility devices may no longer be permitted. This could cause hardship to people who have already purchased these vehicles. There may also be impacts on businesses holding stock which would no longer be permitted on the footpath. Some users may seek exemptions for over-width vehicles	TBD following consultation
	There may be more low-speed collisions between cyclists, powered vehicles and cars on driveways and between users of the footpath.	Medium
	Footpath use by cyclists may pose a barrier to walking for some people (safety and comfort dis-benefits).	Low
Regulators	Public information campaign, including cost of temporary staff and communications activities (NZ Transport Agency) IT changes (NZ Transport Agency) FTEs required to process exemptions Compliance costs eg enforcement, infringement fee processing and collection costs (NZ Police) Road Controlling Authorities will need to designate existing shared paths where	Approx. $350,000 Communications consultant $220,000 (shared across whole package) (excluding staff costs) Approx. $100,000 Further consultation required with NZ Police. Cell phone use ban was estimated in 2009 to cost

	higher speeds are desired and introduce road/path markings and signage	$850,000 in the first year and $720,000 over the next two years. Approx. $1 million nationally
Wider government		
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.
Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Improved understanding of requirements – simpler rules around who can use footpaths. Increased access to transport and uptake of cycling. Increased cycling safety, particularly for children and vulnerable users. Safety benefits for cyclists and pedestrians, as this will allow safe footpath cycling to be proactively taught, with clear expectations of pedestrian priority reinforced.	Medium / High (some benefits already realised through current illegal use of the footpath). Increased access $ Reduced DSI $
Regulators	Reduced resourcing for processing exemption requests for mobility devices outside proposed dimensions	
Wider government	Public health benefits of encouraging active transport modes.	
Other parties	Increased market for low speed new and emerging vehicles, increased bicycle sales	
Total Monetised Benefit		The total monetised benefit is yet to be determined.
Non-monetised benefits		The total non-monetised costs are yet to be determined.

3.2 What other impacts is this approach likely to have?

Allowing cyclists and additional powered devices on footpaths in some situations will impact on particular groups. It is possible this would increase the number of cyclists and other users on the footpath. This would have flow-on effects for the safety of cyclists and pedestrians and especially, vulnerable users such as the young or disabled people. It could also have effects on the provision of on-road facilities for cyclists. However, research suggests that the current

rule is not well-known or observed by children, meaning the change is unlikely to have a significant effect on the number of children cycling on footpaths.

There is a possibility that allowing cyclists and more powered devices on footpaths could be considered inconsistent with New Zealand's obligations under the UN Convention on the Rights of People with Disabilities, if it were to result in restricted accessibility. This will be considered as part of consultation.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

The programme timeline includes public consultation on draft Rule changes. This is likely to be open for submission for five weeks. Key stakeholders include:

- Pedestrian stakeholders who represent a diverse group of perspectives. They are generally likely to have concerns around wider use of the footpath by those other than pedestrians. The advocacy group Living Streets has previously indicated that it would like to see the footpath reserved for pedestrian use only.
- Cycling stakeholders who are likely to support increased use of the footpath by at least some cyclists
- There are strong concerns in the disability sector about the use of vehicles on footpaths and the safety issues, and resulting lack of accessibility to social and economic opportunities this causes. This is particularly an issue for people who have a visual impairment or hearing impairment. Others are likely to be concerned that access to the footpath may be reduced for people using wheelchairs, mobility devices, etc. if there is increased use by other users.
- Manufacturers and retailers of mobility and other wheeled devices are expected to have diverging views, depending on the size, speed and marketing of their products.
- It is unclear what the general public will think of the changes. Many people seem to be unaware of the current rules around the footpath. There is a vocal dissenting part of the population on cycling issues who may be opposed to adults riding on the footpath.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

Implementation would be effected by the NZ Transport Agency, Road Controlling Authorities, NZ Police and local government.

Implementing Option 1 will require changes to the Land Transport (Road User) Rule 2004 (the Road User Rule). This would be drafted by the Parliamentary Counsel Office, with instructions written by the Ministry of Transport and the NZ Transport Agency, as part of the wider Accessible Streets package changes.

The NZ Transport Agency would be responsible for a public information campaign with governance oversight from the Ministry of Transport. The information campaign would come into effect at the same time as the rest of the proposed package and could include encouraging

the use of bells by cyclists and other powered vehicles. Implementation planning would need to allow sufficient time for the NZ Transport Agency to prepare a campaign. Note this would need to compete for funding from the contestable Road Safety Promotion and Demand Management safety activity class within the National Land Transport Programme.

A public education campaign to inform the public of the proposed changes would be developed and implemented before any rule changes came into effect. However, a more dedicated behaviour change campaign that would seek to shape social norms around careful and considerate shared use of the footpath is not planned at this time. It will be considered if there is evidence that people are not following the rules and intervention is required.

Implementation would also involve communications with all key stakeholders, media releases, changes to the official road codes and code for cyclists, and changes to cyclist training. Extra signs may be applied to selected footpaths during a period of several months after implementation.

Road Controlling Authorities would need to assess their local network for any unintended consequences and where a specific bylaw may be appropriate to increase speed limits where this is appropriate. Bylaw making is generally a slow and time consuming process for local councils. We will consider, as part of the consultation, whether the implementation plan needs to allow for any legislative changes by local government before full deployment.

The NZ Police would be responsible for enforcement associated with the proposed change. The NZ Police will target its resource to wherever the greatest risk of harm exists and, while this is unlikely to be on the footpath, effort would be directed there if harm is occurring.

Minimal preparation time is expected for regulated parties to prepare for the recommended changes.

Implementation risks could be managed with extra communications and signage if necessary.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The annual Household Travel Survey provides insight into how people are travelling and using footpaths.

Existing data on footpath safety is available in the Crash Analysis System and the National Injury Query System.

The annual Regulatory Stewardship Rule process allows for technical adjustments to Rules where minor corrections are required to ensure the regulatory system is functioning properly. Potential issues can be addressed through this process.

6.2 When and how will the new arrangements be reviewed?

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 2: Prioritising vulnerable road users

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation
The problem is that the existing give way rules do not adequately provide for the safety and uptake of walking and cycling. Road rules have also been written primarily for drivers of motor vehicles, and we are consequently not prioritising the safety of our most vulnerable road users.

Cyclists are being disproportionately injured and killed on our roads. Cyclists made up approximately three percent of on-road fatalities over the last decade, while cycling comprises only 1.5 percent of the total time spent travelling. The situation is worse for serious injuries, with cyclists making up around 7 percent of serious injuries resulting from crashes. Between 2003 and 2012, cars and trucks accounted for nearly 80 percent of the motor vehicles involved with cyclist deaths on urban roads.

Pedestrians made up approximately 10 percent of on-road fatalities over the last decade (2008 – 2017) and 11 percent of serious injuries resulting from crashes. Walking also comprises 10 percent of the total time spent travelling (from 2015-17 Household Travel Survey).

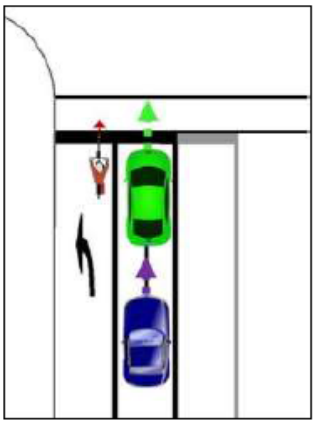
Given this our road rules are not adequately supporting walking and cycling as active forms of travel, particularly in our cities.

In response to the Cycle Safety Panel Report, *Safer Journeys for People who Cycle*, the previous Associate Minister of Transport approved in-principle a number of rule changes and investigations. These are outlined in the report, *Making Cycling Safer and More Attractive* which was the NZ Transport Agency's response to the Cycle Safety Panel's recommendations. Additionally, a number of options were discussed in the MWH report.[21]

Why does the problem need to be addressed now?
There are a number of specific current risks to cyclist safety, and barriers to walking and cycling uptake, which can be mitigated by changing the road user rules for pedestrians and cyclists. Changing these rules will also support the uptake of cycling on new infrastructure, such as cycleways built under the Urban Cycleways Programme. These issues and a number of proposals are set out below:

[21] MWH and ViaStrada (2016) Review of road user rules for people walking and cycling. Prepared for the NZ Transport Agency. New Zealand.

Issue 1: Cyclists are prohibited from using left-turning lanes to travel straight ahead at intersections, even where it may be safer to do so.

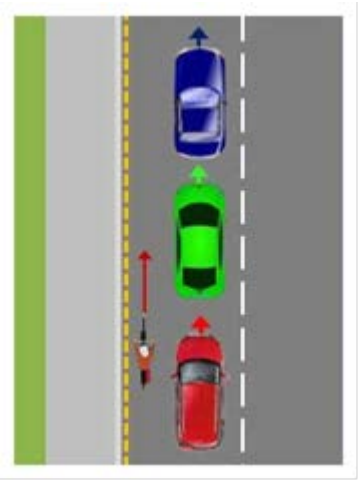


Section 2.3 of the Road User Rule prohibits all vehicles, including cyclists, from using left-turning lanes to travel straight ahead at intersections, even in circumstances where it may be safer for cyclists to do so. In some situations (eg where there is no cycleway), this means that to comply with the law, cyclists must move into a through lane, which may have fast and busy traffic moving past the cyclist on their left, in order to travel straight ahead. This can pose an increased crash risk, which leads to many cyclists choosing to disobey this rule for their own safety. In practice, many cyclists choose to queue and proceed through the intersection from the adjacent left turn lane, where the speed and traffic volumes are often lower. This means that currently there is an inconsistency between regulatory requirements and actual practice.

The current Road User Rule does not support the best use of existing road networks in a way that maximises their benefits for all users. Because of this, some cyclists may either choose to ignore the existing Rule, or they may be put off cycling by the prospect of having to remain in the through lane.

To address these concerns, Proposal 1 is to adopt a rule change legitimising the practice of riding straight ahead from a left-turn lane when the left turn lane is empty.

Issue 2: Cyclists are prohibited from overtaking slow-moving traffic on the left



Road User Rule 2.8 limits any attempt to pass on the left of another vehicle moving in the same direction, unless that vehicle is stopped (they can do so if a cycle lane is marked). However, many cyclists choose to 'undertake' (overtake on the left hand side) slow-moving or stopped traffic where they perceive it is safe to do so. Preventing this behaviour can pose a safety risk, in that it requires cyclists to move between lanes of traffic. It can also lead to inefficiencies in traffic flow, either by slowing down cyclists (who are unable to undertake) or other vehicles (when cyclists are required to merge into traffic to overtake). The current overtaking requirements are causing confusion for both cyclists and other road users, particularly in congested areas where general traffic moves slowly in a stop-start fashion and thus constantly changing the legal status of a cyclist's behaviour.

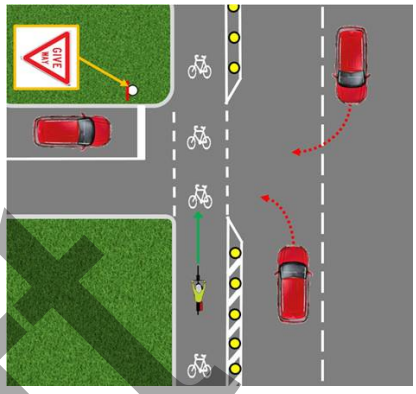
While an alternative solution under the existing Rules would be to mark a cycle lane (which allows for passing other vehicles legally), these must be made permanent and enforceable (eg via Council resolution of special vehicle lanes) and designed to be continuous. "Pinch-points" may exist in parts of a street that prevent installing an adequate continuous cycle lane, but there is often room along some sections to pass on the left safely. In practice, while more cycleways are being built, most roads in New Zealand will not to have any formal cycling facilities in the foreseeable future, thus requiring cyclists to use the existing general traffic lanes.

The promotion of cycling is a priority for the Government, but the current requirements set out in the Road User Rule do not support the best use of existing road networks in a way that maximises their benefits. As with Proposal 1, allowing cyclists to overtake slow-moving traffic

on the left would also legitimise a practice that is already occurring. In the absence of a change, some people may either choose to ignore the existing Rule when cycling or they may be put off cycling by the prospect of not being able to overtake on the left.

To address these concerns, Proposal 2 is to adopt a rule change allowing cyclist to carefully pass a slow-moving motor vehicle ('undertake') on the left (unless the vehicle is indicating a left turn).

Issue 3: Special vehicle lane users do not have precedence over turning traffic when crossing side-roads if their lane is separated from turning traffic

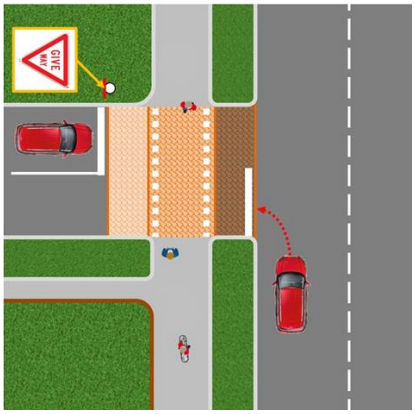


Due to a technical anomaly, cyclists in cycle lanes that are physically separated from other traffic on what appears to be the roadway do not have precedence over traffic on the roadway when crossing priority-controlled side-roads, or at signalised intersections facing a green light.[22] This means that cyclists travelling straight through are treated inconsistently with other traffic, in that they must give way to other traffic. There are potential safety risks and inefficiencies associated with this. The same anomaly applies to physically separated bus lanes.

The funding and delivery of an integrated network of cycleways is a priority for the Government, but the current Road User Rule does not support their use in a way that maximises their benefits. Because of this, some cyclists may choose to use the road even where a cycle path or separated cycle lane is likely to be safer. Road Controlling Authorities may also choose not to construct cycle lanes that are separated, further limiting the number of people who may choose to cycle.

To address these concerns Proposal 3 is to adopt a rule change that gives cyclists and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycleway.

Issue 4: Path users do not have precedence over turning traffic when crossing side streets



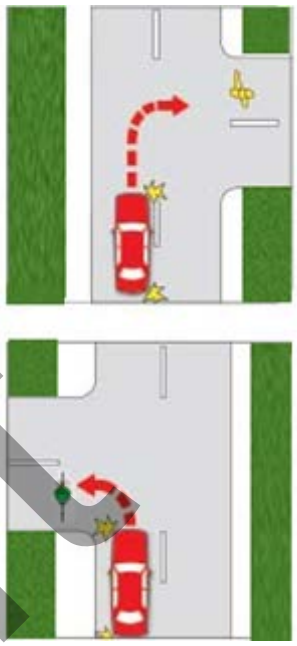
Many countries give precedence to footpath (and other path) users travelling in parallel to the main road when they are crossing an unsignalised side street. In New Zealand, such precedence is currently only given by the installation of a pedestrian (zebra) crossing.

There are also inconsistent rules about which path users cars are required to legally give way to, when the path user is using a pedestrian crossing. Cars are not legally required to give way to a small children who can legally bike on the footpath or cyclists using a crossing as part of a shared path. This is a growing issue as Road Controlling Authorities are increasing the availability of shared pathways and cycle paths.

[22] Except in some cases where there are red cycle signals or turning arrows.

Given these issues there is a case for considering whether there should be consistent approach to whereby all users of a thoroughfare, whether on a path or roadway, (pedestrians, cyclists, motor vehicles, etc.) may be given precedence over traffic turning off the thoroughfare.

We have considered two options to address these issues. Proposal 4 is to adopt a rule change that enables Road Controlling Authorities to give priority to footpath, shared path and cycle path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required the Road Controlling Authority has put in place the appropriate traffic control devices (eg a signage or road markings).



Alternatively, Proposal 5 (shown in the two graphics on the right) would be to adopt a rule change that requires drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users (when those users are crossing or have the intention of crossing the side road)[23].

Proposal 4 could be used as a safe step towards Proposal 5 (see below) being implemented at some stage in the future, once driving culture has become more accepting of giving way to path users at side-roads.

1.2 Who is affected and how?

Road users and pedestrians, including cyclists, bus and car drivers, will be affected. However, overall the long term impact is expected to be minimal.

Allowing cyclists to travel straight ahead from left-turning lanes and overtake slow-moving traffic on the left would legitimise common existing behaviour. As such, we expect little change in behaviour, other than minor changes to cycle skills instruction. This would encourage riders to consider the potential risks associated with undertaking slow-moving vehicles or riding straight ahead from a left-turn lane, and adopt strategies to minimise those risks (and maximise the potential safety and efficiency gains).

Road Controlling Authorities may apply markings and/or signs to encourage or restrict riding straight through in a left-turn lane in some situations. These changes are generally supported by Road Controlling Authorities, and cycling and walking advocates. There are likely to be opponents to allowing cyclists to overtake slow moving traffic on the left amongst professional drivers (as they regularly experience unsafe undertaking behaviour).

Introducing priority for path crossings involves changing the behaviour of drivers who currently have legal right of way over path users at uncontrolled intersections. Without a change in driver behaviour, there is potential for an increase in DSI crashes at uncontrolled intersections, over the status quo, particularly in the short term. This change would require drivers to give

[23] An uncontrolled intersection is an intersection that is not a roundabout or controlled by traffic signals.

way to path users crossing side-roads at some (or most) uncontrolled intersections. At these intersections, cyclists and pedestrians would be able to travel across side-roads more quickly, thus reducing their travel time, at the expense of turning traffic. The resulting situation would be similar to where driveways cross paths, where path users already have priority.

This change would allow more cycleways to be built with separation from traffic maintained right up to the side-road, thus increasing the perceived safety and appeal of cycling as a transport choice.

1.3 Are there any constraints on the scope for decision making?

In response to the Cycle Safety Panel Report, *Safer Journeys for People who Cycle*, the previous Associate Minister of Transport approved in-principle a number of rule changes and investigations. These are outlined in the report, *Making Cycling Safer and More Attractive* which was the NZ Transport Agency's response to the Cycle Safety Panel's recommendations. Additionally, a number of options were discussed in the MWH report[24].

There is ongoing work to consider further potential rule changes to make cycling and walking a safer and more attractive choice, and to take account of emerging technologies. The costs of change are unclear as the level of uptake of potential new crossing designs is unknown.

Section 2: Options identification

2.1 What options have been considered?

Options:

Option 1: Status Quo

- No change to any of the areas discussed above.

Option 2 (Preferred)

- Proposal 1: Adopt a rule change legitimising the practice of riding straight ahead from a left-turn lane.
- Proposal 2: Adopt a rule change allowing cyclist to carefully pass slow-moving motor vehicles ('undertake') on the left (unless they are indicating a left turn).
- Proposal 3: Adopt a rule change that gives cyclists and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane (as they currently have on an unseparated cycle or bus lane).
- Proposal 4: Adopt a rule change that enables RCAs to give priority to footpath, shared path and cycle path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed.

Option 3

- Proposal 1: Adopt a rule change legitimising the practice of riding straight ahead from a left-turn lane.
- Proposal 2: Adopt a rule change allowing cyclist to carefully pass slow-moving motor vehicles ('undertake') on the left (unless they are indicating a left turn).
- Proposal 3: Adopt a rule change that gives cyclists and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane (as they currently have on an unseparated cycle and bus lanes).
- Proposal 5: Adopt a rule change that requires drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users (when those users are crossing or have the intention of crossing the side road).

Option 4

- Proposal 3: Adopt a rule change that gives cyclists and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane (as they currently have on an unseparated cycle and bus lanes).
- Proposal 4: Adopt a rule change that enables RCAs to give priority to footpath, shared path and cycle path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed.

Criteria

- Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians, mobility devices, cyclists, and other users?
- Effectiveness: How does the option maintain or improve accessibility for, and the safety of, users?
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1 – Status Quo

Pros –

- No costs of change would be incurred.

Cons –

- The development of crossings that provide efficient flow for cyclists, pedestrians and other path users would continue to be restricted by the legal loss of priority at side-road crossings. The benefits of the proposed approach would not be realised.

Option 2 – Proposals 1, 2, 3 and 4 (preferred)

Proposal 1: Adopt a rule change legitimising the practice of riding straight ahead from a left-turn lane

Pros –

- Legitimising an already common practice by many riders (typically done for their safety), which may reduce motorist antagonism.
- Reduced conflicts between through-cyclists and adjacent through-traffic.
- Minimising the need to install separate cycle lanes at every location, particularly in narrow roadway cross-sections.

- Increased safety from reduced conflicts between through-cyclists and adjacent through-traffic (especially high-speed traffic), due to greater separation.[25]
- Improve all road users understanding of the rules.

Cons –

- Potential for increased conflicts in merging space immediately after the intersection.
- Conflicts between a turning driver and a through-cyclist in the same turn lane, with the driver believing that the cyclist was also going to turn into the same street.
- Conflicts between a waiting through-cyclist in the kerb-side turn lane and turning traffic.
- Conflicts between a right-turning driver and an opposing through-cyclist in the left-turn lane, with the driver believing that they were going to turn left into the same street.

These effects are expected to be relatively small and any conflicts between road users would decrease as road users adjust to the changes.

Proposal 2: Adopt a rule change allowing cyclists to carefully pass a slow-moving motor vehicle ('undertake') on the left (unless the vehicle is indicating a left turn)

Pros –

- Allowing cyclists to get past slow-moving traffic to a safer position (more visible to traffic), and reducing their exposure to traffic fumes (as they are no longer directly behind vehicles).
- Allowing cyclists to ride without being held up by slow-moving motor vehicle traffic
- Legitimising an already widespread practice (typically done for practical reasons), which may reduce motorist antagonism.
- Eliminating the inconsistency implied by the current legislation (that allows cyclists to overtake stopped traffic, but prohibits it the moment traffic starts moving).
- Increased safety from reduced conflicts, by allowing cyclists to move forward into more visible positions relative to adjacent motor vehicles.

Cons –

- Conflicts between a motorist turning right through a gap in traffic and an oncoming cyclist overtaking the line of traffic
- Conflicts between a left-turning motorist slowing to turn and a cyclist overtaking from behind them on their left
- Conflicts between a cyclist and opening car doors (with little room to avoid), either from:
    - adjacent parked cars - most likely to occur (as most drivers who park a car immediately get out of it), and having the greater associated risks, as cyclists may fall into the path of oncoming traffic; or
    - the passenger door of a vehicle in the traffic lane - less likely to occur (It is uncommon for passengers to exit a car from the traffic lane. It also relies on the car being able to stop fully) and less likely to result in the cyclist getting pushed into the path of moving traffic.
- Conflicts between cyclists and pedestrians crossing through gaps in traffic

The impact of these potential conflicts are considered to be relatively negligible to moderate; it is not expected that this Rule change would significantly change the prevalence of cyclist overtaking on the left. A particular problem is that of drivers in the slow-moving queue stopping or slowing further to leave a gap for opposing drivers to turn through, and these opposing

[25] Potential safety effect of this proposal identified in MWH and ViaStrada (2016), *Review of road user rules for people walking and cycling*. Prepared for the NZ Transport Agency. New Zealand.

drivers not seeing (or thinking to look for) cyclists. This safety issue could be somewhat addressed at problem locations by introducing treatments at side roads.

It is expected that a change in the Road User Rule to allow cyclist left-side overtaking behaviour would have a *neutral* effect on the safety of road users.

Note: Motorcyclists are not included in the proposed change on the same basis that they are not currently permitted to undertake stationary traffic (while cyclists are), namely, their speed and ability to accelerate at the same rate as other traffic.

Proposal 3: Adopt a rule change that gives cyclists and buses priority over turning traffic when travelling straight through an intersection on a separated cycle or bus lane (as they currently have on an unseparated cycle or bus lane)

Pros –

- This option involves very minimal behaviour change, as drivers largely already exhibit the desired behaviour (ie giving way to straight-through riders/buses) regardless of the presence of lane separators.
- Cycleway designers can continue the lane separators right up to the intersection, thus allowing for greater perception of safety.
- A previous analysis of this proposed rule change (MWH and ViaStrada, 2016)[26] identified several expected benefits:
    - Better consistency around the precedence for through-cyclists over turning traffic, regardless of where in the road corridor they are riding
    - Reduced delays for cyclists who do not have to wait for turning traffic when crossing side-roads - a key issue at traffic signals where alternatively cyclists are often allocated a very short time in the signal cycle to travel straight through
    - (In the long run) improved safety due to greater care and slower speeds exhibited by turning drivers
    - Greater ability by RCAs to provide separated cycleways that appeal to a wide range of people whilst providing priority and minimal delay
    - May encourage further investment in new facilities if cyclist priority is provided.
    - Reduced likelihood or severity of conflicts between through-cyclists and turning traffic *if* the traffic slows down more before turning (positive safety impact)
    - Reduced delays to through-cyclists who do not have to stop or slow to a crawl to determine if a driver is turning, or wait for turning/crossing traffic to go first.
        - No separate signal phasing for cyclists, providing precedence for through-cyclists over turning traffic, was found to reduce the average delay for cyclists by more than 10 seconds.[27]

Cons –

- This Rule change may lead to fewer on-road cycle lanes where cyclists already have precedence over turning traffic.
- The previous analysis (MWH and ViaStrada, 2016) identified several potential safety impacts. These are outlined below, along with a commentary regarding the role of the proposed mitigation measures and anticipated seriousness:

[26] MWH and ViaStrada (2016) *Review of road user rules for people walking and cycling*. Prepared for the NZ Transport Agency. New Zealand.

[27] Ibid: SIDRA modelling of a signalised crossroad intersection.

- *Conflicts between turning traffic on the main road and through-cyclists crossing their path:* As far as can be ascertained, no fatal cycle crashes in New Zealand since 2006 have involved a collision between a turning motorist and a cyclist crossing an intersection from an off-road/separated facility. An increasing number of separated cycleways are being installed, which may increase the chances for this to occur. However, the additional recommended treatments proposed in the MWH and ViaStrada report (markings, signage, platforms etc.) would mitigate this by increasing road user awareness of potential for conflict at specific locations and reducing travel speeds.
    - Therefore, this is expected to be a moderate issue.
- *Conflicts between through traffic on the main road and turning traffic in front of them who slow down or stop suddenly for a cyclists:* The mitigation measures used to increase drivers' awareness of the Rule changes (eg public promotion) will apply to following drivers as well as turning drivers. Rear-end crashes involving motor vehicles do not generally result in serious injury.
    - This is expected to be a negligible issue.
- *Conflicts between traffic on the side-road and main-road cyclists crossing in front of them:* Side road traffic approaching the cycleway crossing will have good visibility of the crossing location and the mitigation measures will increase drivers' awareness of the potential for conflict and required behaviour. Additional recommended treatments proposed in the MWH and ViaStrada report (markings, signage, platforms etc.) would also mitigate this potential for conflict at specific locations by reducing travel speeds.
    - This is expected to be a negligible issue.

- Issues of efficiency, due to: delays to turning traffic on the main road who have to wait for a through-cyclists to cross their path; delays to through traffic on the main road who are held up in the same lane as turning traffic; and delays to traffic on the side-road who have to wait for a main-road cyclists to cross.[28]
    - Providing precedence for through-cyclists over turning traffic, with no separate signal phasing for cyclists, was found to increase the average delay of parallel traffic by less than 3 seconds.[29]
- Overall it is expected that the proposed Rule change would have a *neutral* effect on road safety and road efficiency. This will be particularly the case at sites where additional physical features (such as raised platforms and signage) are introduced at the cycle way crossing.

Proposal 4: Adopt a rule change that enables RCAs to give priority over turning traffic to footpath, shared path and cycle path users travelling straight through across a side-road at specific locations where the required traffic control devices are installed. Required devices might include give way or stop signs and markings, and limit lines facing traffic turning into and out of the side-road

Pros –

- Better consistency around the precedence for through-cyclists over turning traffic, regardless of where in the road corridor they are riding
- Certainty for pedestrians that they have precedence over vehicular traffic at more locations

[28] Ibid.

[29] Ibid: SIDRA modelling of a signalised crossroad intersection.

- Potential to reduce delays for cyclists and pedestrians who do not have to wait for turning traffic when crossing side-roads
- (In the long run) improved safety due to greater care and slower speeds exhibited by turning drivers
- Greater ability for RCAs to provide separated cycleways (including shared pathways) that appeal to a wide range of people whilst providing priority and minimal delay
- May encourage further investment in new facilities if cyclist priority is possible across shared paths.
- Assistance for those pedestrians who are visually impaired or have a disability that makes crossing a road difficult, particularly to find a sufficient gap in the traffic flows to safely cross.
- Simplifying the decision-making process for young pedestrians and other cognitively-impaired pedestrians about when it is safe to cross a side road.
- Consistency for overseas visitors used to more pedestrian-friendly crossing laws elsewhere, such as in Europe and parts of the United States.
- Elvik et al. (2009) noted significant safety benefits when raised pedestrian crossings were introduced (39% average crash reduction). There is therefore a clear safety advantage from using raised platforms for side-road crossings, as recommended with the new path crossing treatment

Cons –

- The analysis by MWH and ViaStrada, 2016 outlines several potential safety effects of giving pedestrians precedence over traffic when crossing side roads (without requiring pedestrian crossing markings), and of giving cyclists precedence when crossing from shared paths; these are outlined below, along with a commentary regarding the role of the proposed mitigation measures and anticipated seriousness.[30]
- Overall the analysis by MWH and ViaStrada, 2016 consider that there would be a moderate effect on the safety of road users, in particular pedestrians in the short term as road users adjust to the new road rules. However, it assumes that overall pedestrians would be reasonably cautious and the number of crashes are likely to be small.
    - *Conflicts between turning traffic on the main road and through-cyclists crossing their path:* As far as can be ascertained, no fatal cycle crashes in New Zealand since 2006 have involved a collision between a turning motorist and a cyclist crossing an intersection from an off-road/separated facility[31]. An increasing number of separated cycleways are being installed, which may increase the chances for this to occur. However, the treatments proposed (markings, signage, platforms etc.) are intended to mitigate this by increasing road user awareness of potential for conflict at specific locations and by slowing traffic down. The wording of the proposed change would put an onus on cyclists to not enter a crossing suddenly if motorists are unable to stop safely.
        - This is expected to be a slight-to-moderate issue.
    - *Conflicts between turning traffic on the main road and pedestrian(s) crossing their path, including mobility devices and wheeled pedestrians:* It is acknowledged that zebra crossings by themselves can increase the

[30] The effects of this proposal (to give pedestrians and cyclists precedence over traffic at side roads where a specific road marking is used) will be a combination of the effects identified in the preceding report (ibid), but to a lesser extent, given the specification of a road marking and/or a raised crossing, as opposed to a blanket rule applied to all possible locations.

[31] MWH and ViaStrada, 2016.

occurrence of pedestrian vs motor vehicle crashes, and drivers turning into a side street may be less likely to expect to encounter a zebra crossing. However, the proposed mitigation treatments (especially where a raised platform is included) will serve to reduce the likelihood and severity of such conflicts, as reported by international research. Existing Road User Rule clause 11.5 also puts an onus on pedestrians (including faster wheeled devices) to not enter a crossing suddenly if motorists are unable to stop safely.
        - Therefore, this is expected to be a slight-to-moderate issue.
    - *Conflicts between through traffic on the main road and turning traffic in front of them who slow down or stop suddenly for cyclists or pedestrians:* The mitigation measures used to increase drivers' awareness will apply to following drivers as well as turning drivers. Rear-end crashes involving motor vehicles do not generally result in serious injury.
        - This is expected to be a negligible issue.
    - *Conflicts between traffic on the side-road and main-road cyclists and / or pedestrians crossing in front of them. In particular, when the side-road has two approach lanes (or space for two vehicles to fit side by side) and one vehicle obstructs view of the crossing user for the adjacent approaching side road vehicle:* Side road traffic approaching the crossing will have good visibility of the crossing location and the mitigation measures will increase drivers' awareness of the potential for conflict and required behaviour. Where platforms are used (as per recommended best practice) this would also reduce the speed of turning vehicles and therefore likelihood and severity of conflict.
        - This is expected to be a negligible issue.
- Issues of efficiency, due to: delays to turning traffic on the main road who have to wait for a pedestrians or cyclists to cross their path; delays to through traffic on the main road who are held up in the same lane as the turning traffic; and delays to traffic on the side-road who have to wait for a main-road pedestrians or cyclists to cross.[32]
    - Previous modelling of the impacts of a pedestrian priority rule by Koorey and McCrostie (2015)[33] found that the relative delays to motorists from such a rule were largely balanced by the relative time savings to pedestrians. Similar effects are likely to apply to cyclists using shared paths.

Overall it is expected that the proposed Rule change would have a *neutral* effect on road safety and road efficiency. There may be some issues particularly in the short term as people become used to the changed rules. However, the effects of this would be constrained by only having a limited number of initial trial sites and selecting only the most suitable ones in terms of best practice design (such as raised crossings and other enhanced site treatments).

Option 3 – Proposals 1, 2, 3 and 5
Please refer to Proposals 1, 2 and 3 as described above.

Proposal 5: Adopt a rule change that requires drivers, when entering or exiting an uncontrolled side road, to give way to footpath, shared path and cycle path users (when those users are crossing or have the intention of crossing the side road).

[32] These three efficiency impacts were identified by MWH and ViaStrada, 2016.

[33] Koorey G., McCrostie C. (2015), "Feasibility of Implementing International Pedestrian Crosswalk Laws in New Zealand", *IPENZ Transportation Group Conference*, Christchurch, 22-24 Mar 2015, 16pp.

Pros –

- This option has the same pros as Option 1, plus:
- Subject to the increased safety risks discussed below, wider application across the entire land transport network, would result in greater travel time savings for path users.
- This option would most strongly encourage the uptake of active modes, clearly changing the prioritisation of path users over motor vehicles at uncontrolled intersections
- There would be greater certainty for all path users and vehicle drivers as to the expected behaviour where paths adjacent to main roads cross side roads.
- This option would improve consistency for overseas visitors used to more pedestrian-friendly crossing laws elsewhere, such as in Australia, Europe and parts of the United States.

Cons –

- This option has the same cons as Option 1, plus:
- Giving priority to path users in situations where there are high traffic speeds increases the risk of death or serious injury in the event of a collision between a motor vehicle and a path user. There is a risk that there may be a temporary increase in pedestrian and cyclist deaths and serious injuries while drivers adjusted to the new rule[34]. This would be mitigated through a well-implemented and robust information campaign before the rule changed and could also be mitigated by limiting the requirements to lower speed roads.
- Giving priority to path users will result in minor travel time delays for vehicles entering or exiting side roads and on the roadway.
- RCAs may need to roll out more signalised pedestrian crossings, in order to maintain traffic flows into and out of side-roads along busy arterial roads. At some T-intersections, they may choose to use barriers to restrict path user access to crossing points they deem unsafe. They are also likely to roll out raised platforms at crossing points where safety is a particular concern. The extra cost to Road Controlling Authorities could be substantial, but would depend on the strategy the Road Controlling Authorities choose.

Overall, this option may produce a result similar to Proposal 4. At this stage, Proposal 4 is considered to be a first step towards the future implementation of Proposal 5.

Option 4 – Proposals 3 and 4

Please refer to Proposals 3 and 4 as described above. See below for an assessment of the option sets against one another.

34 MWH and ViaStrada (2016) *Review of road user rules for people walking and cycling*. Prepared for the NZ Transport Agency. New Zealand, page III.

2.2 Which of these options is the proposed approach?				
	Option 1: Status quo	**Option 2:** Proposals 1, 2, 3 and 4	**Option 4:** Proposals 1, 2, 3 and 5	**Option 4:** Proposals 3 and 4
Equity: How equitably are the impacts of changes to access and safety distributed to path users?	**0**	++	+++	+
Equity: How equitably are the impacts of changes to access and safety distributed to cyclists?	**0**	++	++	+
Equity: How equitably are the impacts of changes to access and safety distributed to motorists?	**0**	-	- -	-
Effectiveness: How does the option maintain or improve access for targeted users?	**0**	++	+++	+
Effectiveness: How does the option maintain or improve the safety of users?	**0**	+	-	+
Practicality: How enforceable and measurable is the option?	**0**	+	+	+
Feasibility: How acceptable is the option to the public?	**0**	-	- -	+
Overall assessment:	**0**	**6**	**3**	**5**

Equity and Effectiveness have been given greater weight in the above decision-making framework. This weighting reflects the Government's priorities in this area. As indicated in the draft Government Policy Statement on land transport 2018, access and safety are of highest priority.

The proposed approach is **Option 2**:

- Proposal 1: Adopt a rule change legitimising the practice of riding straight ahead from a left-turn lane.
- Proposal 2: Adopt a rule change allowing cyclist to carefully pass a slow-moving motor vehicle ('undertake') on the left (unless the vehicle is indicating a left turn).
- Proposal 3: Adopt a rule change that gives cyclists and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane (as they currently have on an unseparated cycle or bus lane).

- Proposal 4: Adopt a rule change that enables Road Controlling Authorities to give priority to footpath, shared path and cycle path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices (eg signs) are installed.

The preferred approach is intended increase cyclist safety by helping to reduce conflicts between cyclists and traffic and improve cyclist visibility, while also legitimising already wide-spread travel and overtaking practices used by many cyclists. This approach should help to make streets more active mode-friendly, improving efficiency for those choosing active transport modes by prioritising pedestrian, cyclist and bus movements, and in the long term improving the safety of people walking and cycling due to turning drivers taking greater care and adopting slower speeds.

There are a number of potential safety risks associated with these Rule changes (in particular Proposal 4), including conflicts between turning traffic on main roads and cyclists and pedestrians crossing their path. We consider that the proposed mitigation treatments, including road markings and raised platforms, will help to manage the severity of these conflicts – in particular by managing the speed of motorists turning into side roads and raising their awareness.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties		TBD
Regulators	Public education campaign (NZ Transport Agency) to inform motorists of their obligations when turning across parallel crossings, and reminding pedestrians and cyclists of their obligations and the need to still take care when crossing conflict points. Road Controlling Authorities will need to pay for markings required; no signs are required. Crossing costs may be minimal for Road Controlling Authorities who would otherwise have marked an on-road cycle lane across the side road instead of a separated shared path. Some Road Controlling Authorities may wish to provide additional treatments (signs, markings, platforms) at side-road intersections where there is concern about conflicts between pedestrians/cyclists and turning traffic.	$500,000 public education campaign Markings (lines and symbols): approx. $1000 per side road entrance to supply and install. Approx. $2,000 per side road entrance to supply and install. Approx. $1,000 to $20,000 per site, depending on the level of treatment. Average cost expected to be between $10,000 to $15,000 per intersection. 100 to 200 intersections are expected to be addressed in the next five years at an estimated cost of $1m to $3m
Wider government		
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.
Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Improved levels of service for pedestrians, cyclists and buses Greater uptake of active modes Safety gains	Travel time savings – expected to be neutral Public health benefits (TBD) DSIs- expected to be neutral
Regulators		
Wider government		
Other parties		
Total Monetised Benefit		The total monetised benefit is yet to be determined.
Non-monetised benefits		

3.2 What other impacts is this approach likely to have?

Most of the policy options considered will have only minor impacts, largely due to the fact that they align regulations with existing behaviour. In particular, allowing cyclists to travel straight ahead at left-turning lanes and to overtake slow-moving traffic on the left are likely to have negligible impacts.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

During preparation of the research report by MWH and ViaStrada there was considerable engagement with a range of stakeholders, including Cycling Action Network, Living Streets Aotearoa, NZ Police, NZ Automobile Association, Bike Auckland, Cycle Aware Wellington, the Blind Foundation, Alzheimers NZ, CCS disability Action, and Road Controlling Authorities represented on the Active Modes Infrastructure Group, and the Shared Footpaths Working Group.

All stakeholders will be consulted further on the draft rules.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

The rule changes will be given effect through amendments to the Road User Rule and the Land Transport (Traffic Control Devices) Rule 2004. This could involve possible trials of a number of crossing designs, changes to cycleway and pedestrian facility design guidance online, and training modules for path designers.

There will also be communications with all key stakeholders and media releases, changes to the official road codes and code for cyclists, and changes to driver and cyclist training.

The NZ Transport Agency would be responsible for a public information campaign with governance oversight from the Ministry of Transport. The information campaign would come into effect at the same time as the rest of the proposed package of change. Implementation planning would need to allow sufficient time for the NZ Transport Agency to prepare a campaign and allow for delay of information on Proposal 4 until engineering work is ready. This component is likely to have a local rather than national focus. Note this would need to compete for funding from the contestable road safety activity class within the National Land Transport Programme.

Extra signs may be applied to new pathway crossings during a period of several months after implementation.

Road Controlling Authorities will be responsible for the ongoing operation of any facilities enabled by the new rules. Most Road Controlling Authorities are very supportive of changes that enable them greater freedom in path crossing design.

The NZ Police would be responsible for any enforcement associated with the change in the rules. We expect the impact on NZ Police to be relatively minimal.

Minimal preparation time is required by regulated parties to prepare for the recommended changes.

Implementation risks would be managed with extra communications and signage, if necessary, and possibly by restricting the initial roll-out of new crossing designs to a trial at limited sites approved by the NZ Transport Agency.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The impacts of rule changes are closely monitored by the NZ Transport Agency which has access to a wide range of data sources. It will also be monitored by the NZ Police as part of its enforcement roles.

The annual Regulatory Stewardship Rule process allows for technical adjustments to Rules where minor corrections are required to ensure the regulatory system is functioning properly. Potential issues can be addressed through this process.

6.2 When and how will the new arrangements be reviewed?

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 3: Making space for cyclists

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation
The problem is that some drivers pass cyclists too closely increasing the risk of crashes causing serious injury or death.

In 2017 18 cyclists died on New Zealand roads. This figure was more than three times higher than in 2016, when there were five cyclist fatalities, and in 2015 when there were six. In 2017 cyclists made up nearly five percent of the overall road toll of 379, when they represent just over one percent of mode share for total trip legs taken. While the number of cyclist deaths in 2017 was high, the total number of deaths and serious injuries was not unusual.

Nine percent of cyclist crashes in New Zealand between 2008 and 2017 involved overtaking vehicles. However these types of crashes are much more likely to be fatal than other types, with 20 percent of fatal crashes involving overtaking vehicles. Research in New Zealand shows that the perceived risk of being hit from behind by a car is one of the largest obstacles to increased uptake of cycling.

Drivers who pass too close to cyclists are potentially liable for serious offences under the Land Transport Act 1988 (eg dangerous or careless driving) or the Crimes Act 1961. Drivers who carry out passing manoeuvres in relation to cyclists must also comply with transport rules and can be liable for fines under the Land Transport (Offences and Penalties) Regulations 1999. There is, however, no specific rule prescribing a minimum overtaking gap (MOG) from a cyclist.

Underlying causes of the problem
There are a variety of causes leading to the problem of vehicles passing too close to cyclists. Some drivers do not have a good understanding of the current guidelines that state that they should give cyclists 1 metre of space when passing at under 60km/h and 1.5 metres of space when passing over 60km/h. Some drivers understand the guidelines, but do not exercise courtesy around cyclists and/or do not understand the safety implications of a close pass. Some drivers do not know that they can cross the centre line to safely pass a cyclist or that they should wait behind a cyclist until there is a safe passing point.

Why the problem needs to be addressed now
As noted above, the numbers of cyclist deaths increased in 2017. Increasing cycling safety also aligns with the Government objectives to build a 21st century transport system that is safe, reduces congestion and carbon emissions, provides greater choice, and increases the uptake of active modes such as walking and cycling.

How much confidence is there in the evidence behind the problem definition?
Research was conducted by the NZ Transport Agency and Opus Research in 2016, which investigated the feasibility of trialling a MOG law in New Zealand. The research included an

international literature review and analysis of crash data, as well as installing technology on bikes to collect on-road field data (through video cameras and LIDAR).[35]

The on-road data found that close passes do occur, and this varied on different types of roads from 1.7 percent to 7.2 percent. It was unclear whether these passes were from many drivers some of the time or a few drivers most of the time.

1.2 Who is affected and how?

The Government is seeking to change the behaviour of drivers so that all motorists give cyclists adequate space when passing. This is to increase the safety of cyclists and reduce deaths and serious injuries.

The Cycling Safety Panel was created in response to a 2013 coronial inquiry, which investigated 13 cycling fatalities. The inquiry concluded that work needed to be done to investigate ways in which cycling on New Zealand roads could be made safer.

A 2014 report from the Cycling Safety Panel, *Safer journeys for people who cycle*, made a recommendation that New Zealand should trial a MOG rule change. The recommendation would mandate a 1 metre minimum passing distance for motor vehicles travelling under 60km/h and 1.5 metres when travelling at over 60km/h.

Cycling stakeholders are likely to support the introduction of a MOG rule change. Those who are unlikely to support such a change include stakeholders such as the Road Transport Forum who would be concerned about the viability of such a rule on narrow roads with large vehicles. There is also a vocal dissenting part of the population on cycling issues which would likely create some public backlash to this proposal.

1.3 Are there any constraints on the scope for decision making?

Amending the Road User Rule to allow for a MOG rule is being investigated as part of a wider package looking to improve safety for vulnerable users and clarify the rules around who and what can travel on footpaths, cycleways, and shared paths.

[35] A device similar to radar, that measures distances using lasers.

Section 2: Options identification

2.1 What options have been considered?

Options:

- Option 1: Status Quo
- Option 2: Introduce an education campaign
- Option 3: Amend the Road User Rule to allow for a MOG rule with an education campaign

Criteria:

- Equity: How does the option distribute the benefits and burdens to drivers and cyclists?
- Effectiveness: How much does the option improve the safety of cyclists?
- Practicality: How enforceable and measurable is the option?
- Political feasibility: How acceptable is the option to the public?

Option 1: Status Quo

Pros –

- Currently, there are guidelines for how drivers should pass cyclists and performance-based laws that support them. While some stakeholders believe that changing the minimum mandated overtaking gaps would improve safety, most of the public already pass cyclists safely.

Cons –

- Although most drivers comply with the current guidelines, safety issues do occur when a close pass results in an interaction between a vehicle and a cyclist. In these interactions the cyclist is nearly always the one that is injured or killed. While the guidelines reflect the law, they are not enforceable in themselves. As outlined above, the perceived risk of being hit by a passing vehicle is a significant barrier to the take-up of cycling.

Option 2: Introduce an education campaign

Pros –

- An education campaign to raise awareness of correct passing distances between drivers and cyclists would ensure all drivers were aware of the appropriate passing distances. There is limited data on effectiveness. For analysis it is assumed that two lives are saved over ten years[36] due to a reduction in close passes, there would be an $8.36 million benefit. This level of benefit has not been able to be confirmed with modelling at this time.
- Through higher awareness, safety would be increased for cyclists. It would be reasonably easy to implement an education campaign. Most of the public is likely to respond positively to an education campaign.

Cons –

- It may be difficult to ascertain exactly how much of a safety benefit has been gained through an education campaign. There will be a portion of the population who will not respond positively to an education campaign.

Option 3: Amend the Road User Rule to allow for a MOG rule with an accompanying education campaign

[36] This is based on the assumption that there are on average ten cyclist fatalities per year, that 20 percent of these fatalities are caused by vehicles passing too close and that the change reduces fatalities by 10% over this period. We would also expect a reduction in serious injuries but these have not been quantified.

Pros –

- This option aims to make it safer for cyclists by reducing the amount of interaction between vehicles and cyclists due to close passes. A mandated MOG law may also make a stronger case for prosecution of cycling fatalities for dangerous driving, if it can be proven that the closeness of the vehicle passing the cyclist was a cause of the crash.
- It is reasonable to assume that the Rule change and accompanying education campaign would also be expected to save two lives over ten years due to a reduction in close passes. This would also be an $8.36 million benefit, though this cannot be modelled.

Cons –

- A mandatory MOG rule would be difficult to enforce, although recent technologies such as video analytics or LIDAR may make this more enforceable than in the past.
- There is a vocal dissenting part of the population on cycling issues which would likely create some backlash to those supporting cycling, and there is some evidence from other jurisdictions that this could potentially have unintended negative (though unmeasurable) consequences for cycling safety.

2.2 Which of these options is the proposed approach?

Which is the best option and why?
When assessing the options against the criteria, Option 2 and Option 3 are very finely balanced. Arguments can be made for either option, as described below, however it is considered that Option 3 is preferred over Option 2.

Why Option 2 could be pursued?
Option 2 would increase public awareness of safe passing distances for drivers around cyclists and would be reasonably easy and fast to implement.

This option goes some way to addressing the problem of too many interactions between motorists and cyclists through unsafe passes. It does this by raising public awareness of what a safe passing distance looks like and what the outcome can be when a cyclists and driver have an interaction.

If this option were to be implemented, it would be part of a package aimed at increasing the safety of vulnerable road users, and its effectiveness could therefore be more than if it were implemented by itself. Implementing an education campaign, alongside greater provision of cycling infrastructure as is likely to occur through the Government's increased focused on active travel, is likely to have much greater benefits.

Why Option 3 could be pursued? (preferred option)
It is likely that a MOG rule change would bring perceived benefits of increased safety to cyclists. However actual improved safety outcomes are hard to assess as there are few examples of this being measured in countries that have implemented a MOG law.

There is little clear evidence as to whether there would be any measurable benefits from the implementation of a MOG rule change over and above the benefits from an education campaign. However, the NZ Transport Agency advises that the likely effectiveness of any behaviour change campaign would be enhanced if matched with a Rule change that mandates a minimum overtaking distance. It is likely that a MOG rule would not have great financial or social costs.

A 2016 evaluation was conducted in Queensland, Australia after a two year MOG law trial. It found that although enforcement officers believe the rule improved safety, it was difficult to enforce, due to perceptions that it was difficult to collect evidence that would withstand scrutiny in Court. The evaluation also determined that while awareness improved, motorist attitudes to

cyclists did not appear to improve and the road safety effects were unclear. It should also be noted that at the same time as trialling the MOG law in 2014, Queensland raised fines for cyclists to the same as for motorists, which resulted in a tripling of fines.

The Queensland evaluation included analyses of preliminary data that suggested a statistically significant decreasing trend in bicycle crashes over the trial period. However, this finding was considered unreliable as it was based on preliminary data, the numbers were very small, and the effects of the rule could not be isolated from changes in other factors such as public education, enforcement, and other road rules.

In May 2018 a New South Wales evaluation of a MOG law trialled found a more positive effect than the Queensland experience. The findings suggest the trial led to improved cyclist safety and an estimated 15 percent reduction in casualty crashes, indicative of not providing the minimum passing distance in the 10 months after the trial began.

There are problems with the practicability and enforceability of a future MOG law in New Zealand. NZ Police have indicated that, in practice, enforcement would be effectively impossible. The Opus report (mentioned above) conducted into the feasibility of a MOG rule change in New Zealand found that cyclists and drivers abilities to judge 1 metre or 1.5 metres is unknown and would need assessing.

It should be noted that both the Australian examples above ran trials of the rule changes. Trialling of rules is not a practice that is usually undertaken in New Zealand, however a rule could be amended with provision for extensive monitoring and evaluation within a specified time period, which would allow it to be changed again if it was found to be ineffective.

There is some international evidence that shows mandatory minimum overtaking gap rules lead to measureable safety benefits for cyclists by reducing the number of dangerous close passes. A rule change would also help to clarify the current legal situation where cyclists are involved in accidents with overtaking motor vehicles, by providing an explicit offence. Arguably, a mandated MOG law may also make a stronger case for prosecution of cycling fatalities for dangerous driving, if it can be proven that the closeness of the vehicle passing the cyclist was a cause of the crash.

This option, a campaign and a rule change together, is likely to be provide more incentive to change behaviour than a campaign on its own. While enforceability may be an issue it will provide more clarity on the legal requirements and is more consistent with the Government safe system approach, which leans on the side of the safety, particularly for such a vulnerable user group. There is also limited chance of over-regulation given this is an accepted safe overtaking approach whether by education or regulation.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft

Additional costs of proposed approach, compared to taking no action		
Regulated parties	Cyclists and motorists: There will be some extra costs on motorists through delays due to waiting to find safe opportunities to pass cyclists, although this should already be occurring.	Low
Regulators	NZ Transport Agency, NZ Police	$350,000+ (excluding staff costs) primarily for education
Wider government		
Other parties		
Total Monetised Cost		Total monetised costs are yet to be determined.
Non-monetised costs		Total non-monetised cost is yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Cyclists and motorists	Approx. 2 lives saved $8.36 million[37]
Regulators	Government, NZ Police	
Wider government	Public health benefits	
Other parties		
Total Monetised Benefit		Total monetised benefit is yet to be determined.
Non-monetised benefits		Total non-monetised benefits have yet to be determined.

[37] This is based on the assumption that there are on average ten cyclist fatalities per year, that 20 percent of these fatalities are caused by vehicles passing too close and that the change reduces fatalities by 10% over this period. We would also expect a reduction in serious injuries but these have not been quantified.

3.2 What other impacts is this approach likely to have?

Improvements to the safety of cycling are expected to lead to increased uptake of cycling resulting in subsequent health benefits. Also, depending on how the campaign is designed, it may be possible to improve overtaking behaviour generally (including the overtaking of pedestrians by people cycling and driving).

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

We have not yet consulted with stakeholders on the proposed education campaign approach. Consultation with stakeholders has occurred in the past around the wider issue of a MOG law in New Zealand. Many stakeholders were interested in the idea and their views tended to be quite polarising – those that supported cycling supported the introduction of a MOG rule, while most other stakeholder groups did not.

Stakeholders are likely to be less concerned about the introduction of an education campaign. Stakeholders who support cycling, however, may be concerned that such a campaign does not go far enough to address the problem.

Stakeholders will be formerly consulted further on in the development of this package, through a discussion document, at draft rule stage.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

The NZ Transport Agency would be responsible for delivery of a long term behaviour change campaign with governance oversight from the Ministry of Transport. The behaviour change campaign would likely come into effect at the same time as the rest of the proposed package of change. Implementation planning would need to allow sufficient time for the NZ Transport Agency to prepare a campaign. Note this would need to compete for funding from the contestable road safety activity class within the National Land Transport Programme.

The rule change and/or education campaign would likely come into effect at the same time as the rest of the proposed package of change. This is likely to be in 2019. This would allow sufficient time for the NZ Transport Agency to prepare a campaign.

The greatest risk with the proposed option of introduction of a behaviour change campaign around MOG, is how large the safety impact would be. The safety impact may be small in actuality, as the main benefit being making cycling feel like a safer transport choice. If this option is to be introduced, effective monitoring and evaluation will need to be undertaken to ensure that any effects from the proposal can be accurately measured.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The impacts of an education campaign to improve driver awareness and behaviour when passing cyclists would need to be monitored. Such a monitoring and evaluation system would be determined during the preparation stage of the campaign by the NZ Transport Agency, which has experience in education campaigns.

The impact of a MOG rule change would be monitored by the NZ Transport Agency as part of their role as transport regulator. The NZ Police would also have a role in enforcing the new rule.

6.2 When and how will the new arrangements be reviewed?

An education campaign would be implemented for a set period of time with a review scheduled after the campaign. The best arrangements for this would be determined by the NZ Transport Agency during the preparation of the campaign.

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 4: Prioritising public transport users

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

The policy opportunity is to improve the efficient operation of existing public transport services. Reliability and punctuality are consistently rated as the most important factors influencing customers' decisions to use public transport. Options to improve reliability and punctuality can be expected to lead to improved levels of service and therefore uptake of public transport. Many jurisdictions have laws that explicitly give buses, and especially those on scheduled services, legal priority when pulling out from designated bus stops in order to reduce the risks of delays.

In New Zealand, giving way to buses leaving a bus stop is currently only considered a courtesy requirement. When this courtesy is not extended it creates delays for buses as they have to wait for a suitable break in the traffic or for other road users to provide a gap for merging back into the traffic flow. If this delay is repeated through a bus route it significantly impacts on reliability, and the efficient operation and perception of public transport.

With a trend of increasing congestion in urban areas during peak periods it is becoming more difficult for buses to re-enter traffic flows from a bus stop. As a result, frequent delays can occur impacting on service reliability and operational costs.

In New Zealand, the Road User Rule is the current legislation governing the behaviour of vehicles on New Zealand roads in relation to stopping and giving way. Clauses 4.1 - 4.7 of the Road User Rule do not make any provisions for buses re-entering the flow of traffic from a stationary position at a bus stop. Requirements for bus operators in New Zealand to display 'Give Way to the Bus' signage on buses is merely a request for courtesy from other road users.

There is a perception that many road users give way to buses re-entering traffic flow regardless of a legal requirement to do so, suggesting that a rule change would formalise what is, in part, already occurring.

The proposed Accessible Streets package of changes to the Road User Rule provides an opportunity to address the current situation and clarify the roles of each road user group about when (and where in the traffic flow) road users must give way.

1.2 Who is affected and how?

The proposed change to the road user rule will formalise behaviour that is already happening among a substantial proportion of road users. The change will clarify uncertainty about required behaviour for all road users in relation to who must give way to buses on scheduled services that are moving from bus stops back into the flow of traffic. It is also expected to have a positive influence on courtesy and understanding between bus drivers and other vehicle users. Affected parties will include:

- operators of scheduled bus services
- general motorists
- passengers on public transport
- freight operators

- local government
- enforcement agencies.

The primary groups affected by any rule change will be bus drivers, and bus operators more generally, and the motoring public. There may be some increased level of enforcement required, primarily by the NZ Police.

Existing rules and signals are already available to give buses priority when exiting bus lanes or at traffic lights so were considered outside the scope of this review. The issue is around buses being easily able to re-enter the traffic flow.

It is not considered that rural school buses have significant issues with re-entering the traffic flow. Currently speed restrictions limit vehicles to 20 km/h when passing a school bus that is stopped, which already creates a safer and easier opportunity for these buses to re-enter the traffic flow. It may also be unsafe for vehicles travelling at higher speeds on rural or urban arterial roads to have to stop unexpectedly. Accordingly this option would only apply to buses on roads with a posted speed limit of 60km/h or less.

Legal entitlement to use a bus stop is applied through the by-law process or the local district plan to help manage bus stops within a local context. For example, if non-contracted buses (eg tour coaches and charter services) are using bus stops in busy urban areas and blocking scheduled buses from using bus stops, the Road Controlling Authority can establish a bylaw to prohibit non-contracted buses from using the bus stops.

The rule change will apply to all drivers in the flow of traffic, so all drivers (regardless of the vehicle they are driving) must stop for buses leaving the bus stop. At busy bus stops where multiple buses are trying to exit at the same time there should be a certain level of 'courtesy' applied. As with current practice when overtaking, the expectation is that the first in line takes priority. Design guidelines govern the positioning and safety of bus stop locations, requiring these facilities are a certain distance from intersections. Existing road rules for straight ahead traffic vs. turning traffic would apply to turning buses if faced with a bus exiting a bus stop.

Research was undertaken on behalf of the NZ Transport Agency to quantify the benefits of a change in regulation to enable buses leaving bus stops to have priority merging into the general traffic flow.[38] This forms the basis of the assessment options below.

1.3 Are there any constraints on the scope for decision making?

The scope of the change is limited to giving buses priority to merge back into the flow of traffic when they are operating on scheduled services on roads with a posted speed limit of 60km/h or less and are signalling their intention to exit a clearly defined bus stop. Through vehicles will be required to slow down and give way to indicating buses. Bus drivers would still be required to indicate for three seconds, and otherwise behave in a safe manner, before pulling out.

38 Research Report 609 *Quantifying the economic and other benefits of enabling priority bus egress from bus stops.*

Section 2: Options identification

2.1 What options have been considered?

Options considered:

- Option 1: No change – no legal priority to buses exiting bus stops
- Option 2: Giving legal priority to buses operating on scheduled bus exiting legally defined bus stops where the posted speed limit is 60km/h or less

Criteria used to assess options:

- Equity: How equitably are the impacts distributed to other motorists, cyclists and other users
- Effectiveness: How does the option maintain or improve access, and the safety of, users
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1: No change

Pros –

- There are existing rules that govern where and when road users must give way to other vehicles. In some larger urban areas there is a high level of courtesy already applied by other road users to allow buses to exit bus stops and re-enter the flow of traffic. The perception by focus group participants in research undertaken for the proposal (primarily bus drivers) was that up to 50% of road users currently give way to buses.

Cons –

- Some negative impacts created by confusion and inconsistency of approaches from differing use of voluntary signage across the country. Delays to public transport bus services will continue and be exacerbated as congestion increases, impacting negatively on all public transport users.

Option 2: Giving legal priority to buses operating on scheduled bus exiting legally defined bus stops where the posted speed limit is 60km/h or less

Pros –

- The research report provides an evidence-based assessment of the benefits (monetary and otherwise) that will accrue if the rule is changed to allow priority to buses when leaving bus stops. This report calculated a network wide delay of 29.51 hours per day for buses in the Auckland Region from current driver behaviour. The modelling found, a rule change would have nationwide benefits, with a benefit cost ratio (BCR) between 2.9 and 8.7 (depending on assumptions and implementation options), with most showing a positive BCR around 4.0.
- This option would formalise what is already happening in some larger urban areas. There would be positive impacts on travel time and public transport reliability for bus users, improving access to social and economic opportunities and safety outcomes for multiple road users per bus.
- Other positive impacts include, vehicle operating cost savings for bus operators and improved perception of public transport effectiveness. Improving service reliability is likely to impact positively on customer perception and satisfaction with bus services and have a flow on effect of increased patronage. Also a reduction in driver stress and frustration, clarity of driver obligations, providing a catalyst towards improved road courtesy and improving the profile of public transport for all road users.

- An amendment to existing give way legislation to prioritise buses merging into general traffic can potentially offset or defer investment in other bus priority measures in some locations.
- Stakeholders and focus group participants have been consistently supportive of a move to review and change existing legislation, with other motorised vehicle drivers (including commercial road users) indicating they could see no significant disadvantages for general traffic if a law change was to take place.
- This option is enforceable by the NZ Police and effectiveness could be measured through a reduction in reported incidents between buses and other road users.
- This option would bring New Zealand in line with some overseas jurisdictions, such as in Queensland where you must give way to a bus that clearly displays a 'give way to the buses' sign at the rear of the bus and is attempting to leave a bus stop, road shoulder or drop off point in any speed zone 60 km/h or under.

Cons –

- The rule change would impose a time cost on other road users with slightly increased delays to the general traffic flow during peak periods. This cost is mitigated by the higher level of positive impacts the rule change would have on a greater number of road users. A negative impact in relation to imposing an additional time cost on single occupancy private vehicles, along with improved bus reliability and time savings, is likely to incentivise a move to public transport for some. Vehicles travelling at normal speeds in uncongested traffic flows will be required to slow or stop from 50-60km/h whenever a bus is exiting a bus stop. This could lead to a short term increase in nose to tail crashes until drivers come to expect this practice. This risk could be mitigated by an education campaign accompanying any change.
- Negative impacts on the safety of vulnerable road users is a concern. There is no conclusive evidence to suggest the proposed rule change would result in worse road safety outcomes for any road user. While there is unlikely to be any increase in negative safety impacts on pedestrians, cyclists or motorcyclists could continue to be at risk if bus drivers pull out without checking or fail to see these road users. This risk currently exists, and is sometimes exacerbated by uncertainty where drivers choose to let buses have right of way. The proposed rule change would clarify who gives way and both bus drivers and other road users would be clearer about their roles, thereby reducing some of the uncertainty and resulting unpredictable behaviour. Other mitigations would include extensive communication and awareness-raising of the rule change, signage on buses and effective enforcement.

Note that there is no conclusive evidence to suggest an amendment would result in better or worse road safety outcomes, based on New Zealand crash history records, literature review findings, stakeholder consultation or international case studies.

2.2 Which of these options is the proposed approach?

Option 2 is the preferred option as it provides a number of positive impacts for all road users. These include travel time, vehicle operating costs and public transport reliability benefits.

Other unmeasurable positive impacts include a reduction in driver stress and frustration, clarity of driver obligations, providing a catalyst towards improved road courtesy and improving the perception of the benefits of public transport for all road users. Option 2 formalises behaviour that is already happening among a substantial proportion of road users and has no identifiable negative safety impacts for road users.

However, it is recognised that safe and successful implementation of a rule change should include a nationwide education campaign and advertising to raise awareness, along with effective law enforcement.

The addition of highly visible signage on the backs of buses would also assist in the successful and safe implementation of a change to the Road User Rule to give buses priority over other road users when exiting a bus stop.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft

Additional costs of proposed approach, compared to taking no action		
Regulated parties	Vehicle signage costs including potential loss of advertising space on bus backs	$3 million (signage) $0.2million/annum (decals)
	Travel time costs	$211415/annum (general traffic road user) $281,992/annum (Additional Vehicle operating costs
Regulators	NZ Transport Agency public information campaign Road marking and road signage costs	$350,000 (excluding staff costs) primarily for education TBD
Wider government	Education campaign, legislative change and other implementation costs	
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.

Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Travel time benefits Vehicle operating benefits PT reliability benefits	$261,588/annum (vehicles and freight) $3693.44/day $1,348,091.00/annum (passenger) $ $36,135.00/annum (idle time) $ $253,675.00/annum (driver time) $1,140,318.40/annum (improved reliability benefits – conservative estimate)
Regulators/ Wider government/ Other parties		
Total Monetised Benefit		The total monetised benefit is yet to be determined.
Non-monetised benefits	There are a number of benefits that are of an intangible nature so are not quantifiable using existing evaluation methods and procedures. These include: • clearer driver obligations at bus stops • legislation change creating a catalyst towards increased courtesy and understanding between buses and other motorists • introduction of give way to bus legislation into a new driver training and education programme • increased perception of public transport on road user hierarchy • potential to offset or defer investment in other bus priority measures at some locations.	Medium

3.2 What other impacts is this approach likely to have?

A known cause and contributory factor in bus door entrapment deaths and injuries in New Zealand (there have been several deaths and many injuries over several years) is drivers having to divide their attention between monitoring passengers exiting through the rear doors (looking up in the internal mirror or the CCTV monitor overhead) and looking out the side window to the right-hand side mirror to see when they can pull out into the traffic stream. Giving buses priority upon signalling their intention to move off from a stop is also likely to reduce the risk of passenger entrapment in bus doors.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

As part of the research undertaken for the NZ Transport Agency, questionnaires were sent to stakeholder organisations including to Auckland Transport, Environment Canterbury, the Bus and Coach Association, the Automobile Association and Cycling Action Network.

Responses were received from eight out of the nine organisations. The general consensus among respondents was the current situation causes confusion for motorists some of the time. A majority of respondents stated a rule change would create more certainty for bus drivers as there would be clearer obligations for all road users. A number of respondents considered that if a law change was well publicised and had public support, with reasonable enforcement, then it could have a positive impact on behaviour.

The AA carried out a membership survey looking at the response of its members to the proposed change to give way rules to allow buses priority when re-entering the flow of traffic from a bus stop. The AA concluded that:

- The only group supporting a give way to buses rule change was bus users
- Vulnerable road users such as cyclists and motorcyclists disagreed that it was safe.
- Were a rule to be considered it would be preferable to implement it with a permanent sign on the back of the bus.

However, analysis of the supplied methodology and responses shows that, while a higher percentage of bus users responded positively to the idea of a rule change, there was stronger support than opposition across other mode users as well. Similarly, those road users who returned neutral responses also outnumbered those that opposed.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

This approach would require a change to the Road User Rule, to give scheduled buses priority when exiting legally authorised bus stops that they are legally entitled to use. The safe and successful implementation of a rule change will require a nationwide education campaign and advertising to raise awareness, to be undertaken by the NZ Transport Agency.

It is anticipated there would be a transitional ‘grace’ period following the enactment of the rule change before full enforcement of the rule change is implemented to enable awareness raising via a public information campaign. The awareness raising activities could include signage on

the backs of buses. Note this would need to compete for funding from the contestable road safety activity class within the National Land Transport Programme.

The NZ Police would have responsibility for enforcement of failing to give way to a bus leaving a bus stop. Road Controlling Authorities would not be responsible for enforcing this change because failure to give way to a vehicle leaving a loading zone (an area of marked roadway designated solely for the purpose of loading or unloading goods or passengers) is not a stationary vehicle offence.[39]

The rule change would take effect along with the rest of the Vulnerable User and Pathways package, which is expected to be in mid-2019.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The impact of a rule giving buses priority when exiting bus stops would be monitored by the NZ Transport Agency as part of their role as regulator and enforced by the NZ Police.

Bus companies, and organisations such as Metlink and Auckland Transport, are required to collect information on complaints. This information would include other road user complaints against bus drivers and could be monitored.

6.2 When and how will the new arrangements be reviewed?

An education campaign would be implemented for a set period of time with a review scheduled post the campaign. The best arrangements for this would be determined by the NZ Transport Agency during the preparation of the campaign.

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

[39] The vehicle failing to give way may be positioned in a manner that it never enters the bus stop area itself (and thereby does not contradict any rules that directly apply to restrictions within the marked bus stop) but fails to let the bus re-join the traffic flow.

Appendix 1: Child Impact Assessment

Screening Sheet

1. What is the proposal?

The *Accessible Streets* regulatory package aims to promote safe movement on the footpath for all users. The package will enhance the liveability and vibrancy of New Zealand cities and towns through better designed and regulated pathways, which will reduce barriers to active transport.

The package addresses issues around what vehicles, if any, can use footpaths and other legally defined pathways, such as shared paths. The package also looks at a series of relatively straightforward changes to rules to clarify specific legal issues around the use of public transport, cycle safety and cycle path design. These amendments are intended to:

- clarify the rules around what types of vehicles should be allowed on footpaths, and shared paths and under what conditions
- improve the safety of vulnerable road users at intersections and in traffic
- mandate a minimum overtaking gap for motor vehicles when passing cyclists on the road
- give scheduled passenger buses priority when exiting bus stops.

The package will impact on children and young people, in particular around the regulation of what types of vehicles can go on the footpath. This part of the package is proposing a new principle-based approach to footpath regulation. Our preferred option would allow anyone to ride their bicycle on the footpath at 10km/h. Currently, under the Road User Rule, children from about the age of six years old, cannot legally ride on the footpath (as they ride cycles with a specified wheel size of 355mm in diameter or less),.

None of the other proposed amendments to rules have children as a specific audience, or are likely to impact children or young people in particular. Indirectly, children may be impacted by some of the slight changes around give way rules for walking and cycling, however these planned rule changes are very slight and are to:

- enable cyclists to legally travel straight ahead from left-turning lanes instead of having to cycle in a narrow adjacent lane where other traffic may be travelling
- enable cyclists to legally overtake slow-moving traffic on the left (also known as “undertaking”)
- clarify give way rules for special vehicle lane users at intersections (currently it is unclear whether turning motor vehicles or straight ahead special vehicle lane users have priority)
- allow footpaths, shared paths or cycleways to have right of way over crossing side roads. This would be in specified circumstances and marked with paint or other signage.

2. What are the impacts on children and young people of this proposal?

As noted above the main impacts from the proposals would be allowing children and young people to ride their bicycles on the footpath. We consider this change to be a positive impact

on children, as currently the NZ Police do not recommend that children under the age of 10 ride on the road, however most children outgrow the specified wheel size by the age of five or six.

A potential negative impact of more children riding their bicycles on the footpath, is increased interactions and accidents with children and other footpath users and/or vehicles entering and exiting driveways. There may also be potential for increased interactions between mobility devices, such as Segways, and children and young people who are walking and cycling.

These impacts can be lessened by making cycling on the footpath legal. Children can be safely taught how to do so under the National Cycling Education System through cycle skills training, teaching them how to interact with other footpath users, such as those on mobility devices. For instance, currently children are taught how to safely cross roads, and scooter on footpaths, which could be easily translated to cycle skills training.

Allowing children to cycle on the footpath would enable active transport, especially for children to more safely cycle to school. This increase in active transport would like have positive health and educational benefits.

This would particularly have positive impacts on younger children as those of intermediate age and above are more likely to cycle on the road currently. The proposal is also likely to have a positive impact on children with less equitable access (i.e. children from economically deprived households). Children who do not have adults who can take them in a private vehicle will be able to travel greater distances by bicycle, than by foot.

3. What are the likely impacts on Māori children of this proposal?

We do not believe that there are any significant specific impacts on Māori children, as distinct from other children and young people. It is likely that some Māori children have less access to a car (and an adult with a drivers licence) so may use the footpath more than other young people. In this case, allowing them to legally cycle on the footpath would have a more positive impact, than on young New Zealanders as a whole.

4. Have children and young people had a say and their voice heard in this proposal?

In 2016 a petition was put before Parliament asking for children to be allowed to ride their bikes on the footpath. Concurrently with this, the NZ Transport Agency commissioned research looking at footpath usage. As part of this research the Children's Commissioner surveyed young people and found that around 70% of children did not know it was illegal to ride their bikes on the footpath.

When asked about this law, children were concerned to learn that they could be breaking the law by cycling on the footpath, but most did not think it was safe, or their parent's did not think it was safe, for them to cycle on the road.

Further consultation will occur during the rule making process for this proposal. We will look to consult with children's representatives to ensure that they are not affected negatively by any of the proposed changes.

5. Do the impacts identified require further analysis?

We do not believe that a full CIA needs to be completed for this proposal.