Land Transport Rules

Accessible Streets Regulatory Package 2020

Rules xxxxx/xxxx/x

Overview to the Rules, [day] [month] [year]

This overview accompanies, and sets in context, the public consultation (yellow) draft of proposed amendments to the *Land Transport Rule: Road User*, *Land Transport Rule: Traffic Control Devices*, *Land Transport Rule: Setting of Speed Limits* and the proposed new *Land Transport Rule: Paths and* Road Margins 2019.

(Rules xxxxx/xxxx/x).

The proposed amendment Rules will enable safer and more accessible outcomes for road users.

If you wish to comment on this draft Rule, please see the page headed ‘Making a submission’ for details on how to do this. The deadline for submissions is **5pm on [day] [month] 2019**.

Land Transport Rule

Accessible Streets Regulatory Package 2020

Contents

Consultation on proposed new Rule and Rule changes

The purpose of this publication is to set out the context for consulting on proposed changes to *Land Transport Rule: Road User* (the Road User Rule), *Land Transport Rule: Traffic Control Devices* (the Traffic Control Devices Rule) and *Land Transport Rule: Setting of Speed Limits* (the Setting of Speed Limits Rule) and the introduction of a new *Land Transport Rule: Paths and Road Margins 2019* (the Paths Rule).

Consultation on the proposed changes is being carried out to ensure that legislation is sound and robust and that the Rules development process considers the views of, and the impact on, people affected by the proposed new Rule and changes to existing Rules.

The feedback that is received during consultation will be analysed and considered in finalising the proposed changes to existing rules and the proposed new land transport rule for the Minister of Transport (the Minister) to consider.

Making a submission

If you wish to make a submission on the proposed changes, please read the information below.

Before making your submission—

Please read the information provided in the overview.

Please include the following information in your submission

- the title – Accessible Streets Regulatory Package 2020
- your name, and job title if applicable
- your organisation's name if applicable
- your address – postal, and email if applicable

You can make a submission by using the online form available here:

[link to form]

By email: *[insert email address here]*

If emailing, include the title of the 'Accessible Streets Regulatory Package 2020' in the subject line.

If posting your submission, address it to:

Accessible Streets Regulatory Package 2020

Transport System Policy Team

NZ Transport Agency

Private Bag 6995

WELLINGTON 6141

Please note the deadline for submissions

The deadline for submissions is **5pm** on **[day] [month] [year]**.

Your submission is public information

Please note that the NZ Transport Agency (the Transport Agency) may publish any information that you submit and may identify you as the submitter should we publish your submission or provide it to a third party.

Please indicate clearly, therefore, if your comments are commercially sensitive, or if, for some other reason, they should not be disclosed, or the reason why you should not be identified as the submitter.

Consultation process for new Rule and Rule changes

The Government is committed to ensuring that legislation is sound and robust and that the Rules development process takes account of the views of, and the impact on, people affected by a new Rule and changes proposed to existing Rules.

This publication, for your comment, has two parts:

(a) an overview, which sets out a proposed new Rule and changes to existing Rules in context; and

(b) the consultation (yellow) draft of the new Paths Rule and amendments to the Road User Rule, the Traffic Control Devices Rule, and the Setting of Speed Limits Rule.

Please read these documents carefully and consider the effects that the proposed new Rule and existing Rule changes would have on you or (if relevant) your organisation.

You will notice that the consultation (yellow) draft of the amendments to existing Rules sets out only the proposed Rule changes. If you do not have a copy of the Road User Rule, Traffic Control Devices Rule, and/or Setting of Speed Limits Rule, please read the information in Publication and availability of Rules (page 50) about obtaining Rules. To assist in setting the proposed changes in context, the web versions of the Road User Rule, Traffic Control Devices Rule, and Setting of Speed Limits Rule and the proposed amendments are linked.

The feedback raised in submissions on the proposed new Rule and amendments to existing Rules will be analysed and considered in preparing the Rules for the Minister to consider.

Proposed timetable for implementation

Subject to the approval of the Minister, it is proposed that the Rules would take effect on [day] [month] 2020.

Making a submission

If you wish to make a submission on the new Rule or amendments to the existing Rules, please read the material headed ‘Making a submission’ at the front of this document.

The deadline for submissions is **5pm** on **[day] [month] 2020**.

Summary of new Rule and Rule changes

This summary explains the changes proposed under the new *Land Transport Rule: Paths and Road Margins 2019* (the Paths Rule) and the proposed amendments to the *Land Transport Rule: Road User* (the Road User Rule), *Land Transport Rule: Traffic Control Devices* (the Traffic Control Devices Rule) and *Land Transport Rule: Setting of Speed Limits* (the Setting of Speed Limits Rule).

These rule changes are collectively known as the Accessible Streets Regulatory Package (Accessible Streets) and are designed to increase the safety and accessibility of our footpaths, shared paths, cycle lanes and cycle paths.

The proposed rules respond to the increasing use of micro-mobility devices like e-scooters on our streets and footpaths. The rules are also designed to improve the safety and efficiency of active transport modes and buses.

The proposed rules create a national framework where wide vehicles and fast-moving device users are prohibited from using the footpath, and users of these vehicles have a safe alternative in shared paths, cycle lanes and cycle paths. The safety and priority of cyclists and users of transport devices is also increased at intersections and in traffic, further encouraging these users to avoid footpaths.

The new and amended Rules also give effect to the 2018/19-2027/28 Government Policy Statement on Land Transport (GPS) which outlines a significant shift in land transport investment. It signals a shift to prioritise:

- Safety,
- Accessible and affordable transport,
- Liveable cities,
- Regional economic development,
- Protecting the environment, and
- Delivering the best possible value for money.

The new and amended Rules:

1. Reshape current vehicle and device definitions into new categories to enable better regulation of new and emerging devices and better regulation of where and how they can be used.

2. Change who is allowed on footpaths and introduce conditions that users need to follow when using the footpath. The changes would require users riding on the footpath to:

   (a) Operate in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right of way to pedestrians.
   (b) Not travel faster than 15km/h (to ensure the safety of others on the footpath).

(c) Not ride a device wider than 750mm [other than wheelchairs] (to ensure multiple users can still access the footpath)

3. Clarify who is allowed on shared paths and cycle paths and introduce conditions that users need to follow when using a shared path or cycle path. The changes will clarify that:

    (a) The speed limit on shared paths and cycle paths will match the adjacent roadway. If there is no adjacent roadway, a speed limit of 50km/h will apply on these paths.
    (b) Pedestrians have priority on shared paths.
    (c) Road controlling authorities can declare that a path is a shared path or cycle path by passing a resolution.

4. Clarify requirements for road controlling authorities to restrict parking on berms, by removing requirements for signage.

5. Enable transport devices (such as e-scooters and skateboards) to use cycle lanes and cycle paths.

6. Make changes to the priority of road users, by:

    (a) Allowing cyclists and transport device users to ride straight ahead from a left turn lane.

    (b) Allowing cyclists and transport device users to pass slow moving vehicles on the left.

    (c) Clarifying that turning traffic must give way to all users in separated lanes, if those users are travelling straight through at an intersection.

    (d) Giving greater priority to footpath, shared path and cycle path users on side roads where minimum markings (two white lines) are installed.

7. Introduce consistent reflector requirements for transport device users. The change would permit transport device users on the road at night, provided:

    (a) The transport device is fitted with reflectors or,
    (b) The user is wearing reflective clothing.

8. Mandate a minimum overtaking gap for motor vehicles overtaking cyclists, transport device users, horse riders, pedestrians and mobility device users of:

    (a) 1 metre if the posted speed limit is 60km/h or under;
    (b) 1.5 metres if the posted speed limit exceeds 60km/h.

9. Require road users to give way to buses pulling out of bus stops in urban areas, on a road with a posted speed of 60km/h or less.

Why are the new Rule and Rule changes being proposed?

The 2018 Government Policy Statement on Land Transport has signalled a shift in government support for a much greater investment in improving New Zealander's safety and access to economic and social opportunities in the land transport system. The Accessible Streets package aims to enable these outcomes for road users through a collection of rule changes designed to increase the safety and accessibility of our streets, paths and public transport.

Road users like cyclists and pedestrians are disproportionately injured and killed on our roads. Approximately three percent of on-road fatalities over the last decade were cyclist deaths. However, cycling only contributes 1.5 percent to total time spent travelling. Similarly, seven percent of serious injuries were caused by crashes involving cyclists. Approximately 10 percent of on-road fatalities and 11 percent of serious injuries over the last decade were pedestrians. Walking comprises 10 percent of the total time spent travelling.

The proposed rules give effect to recommendations from Improving Road Safety in New Zealand [DEV-18-MIN-0025 refers], 2014 Cycling Safety Panel's report Safer journeys for people who cycle and responds 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.

What are we seeking your feedback on?

The Transport Agency welcomes your comments on the proposed new Rule and the Rule changes set out in this overview and in the amendment Rule. When you provide your feedback, it would be helpful if you would consider and comment on the following:

- What impact would the proposals have, and on whom?
- Would any groups or individuals be disadvantaged by the proposals, and how?
- Would the proposals impose any costs on you or your organisation?
- Would any groups or individuals benefit from the proposals, and how?
- Are there any implementation or compliance issues that would need to be considered?
- Are there any concerns that safety might be compromised by the proposed changes? Can you provide examples of this?
- Do you have any ideas or recommendations on how to mitigate any disadvantages or transitional issues?

Wherever possible, when making your comments please provide examples to illustrate your point.

What are the proposed changes?

This section sets out the changes that are proposed to the requirements in the Road User Rule, Traffic Control Devices Rule and Setting of Speed Limits Rule, introduces a new Paths and Road Margins Rule, and the reasons for making the changes.

PROPOSAL 1: Re-categorise the types of vehicles and devices allowed on paths

Current state

The types of vehicles and devices currently used on footpaths, shared paths, cycle paths and cycle lanes are categorised into different groups to help regulators, councils, road controlling authorities[1] and the public understand where they can be used.

These categories and their definitions are outlined in the table below:

Category (device/vehicle)	Description
Pedestrians 	The term pedestrian includes people on foot, un-powered wheelchairs and wheeled items used by those who are walking. For example, a person pushing a pram, or a shopping trolley is considered a pedestrian. Pedestrians are the main users of the footpath.
Mobility devices 	Mobility devices are a group of devices or vehicles used for medical reasons (like a physical or neurological impairment). Mobility devices are powered by a motor with a maximum power output of up to 1,500 watts. Mobility scooters and powered wheelchairs are the most common example of a mobility device. Users of mobility devices typically use the footpath.
Wheeled recreational devices 	Wheeled recreational devices (WRDs) are devices with wheels, propelled by human power, gravity or a small motor with a maximum power output of 300 watts. It includes cycles with a maximum wheel diameter 355mm or less (e.g. a bike typically ridden by 6-year-old or younger). This means that most bicycles are excluded from this definition. Typical examples of wheeled recreational devices include scooters, skateboards, in-line roller skates and includes some low powered versions of these devices (like e-scooters and e-skateboards).
Cycles and e-bikes 	Cycles (which include adult tricycles) and e-bikes are treated as their own vehicle category. However, cycles and e-bikes with a wheel diameter of 355mm or less (typically a cycle ridden by a six-year-old or younger) are both a wheeled recreational device and a cycle. E-bikes have a maximum power output of up to 300 watts. An e-bike that exceeds this limit is not included in the cycle category.

The table below outlines where these devices can currently be used.

[1] A road controlling authority (RCA) is an authority, body or person that controls the road and can set and enforce rules on that road. For example, Auckland Transport is a road controlling authority.

Types of device and vehicles and where they can go under the current state:					
Category (Device/vehicle /user)	**Footpath**	**Shared path**	**Cycle path**	**Cycle lane**	**Road**
	No requirement on speed or width	Speed limit: **Matches the adjacent roadway**	Speed limit: **Matches adjacent roadway**	Speed limit: **Matches adjacent roadway**	Speed limit: **Signed speed limit on road**
Pedestrian 	✓✓	✓✓	✓	✓ (If footpath is not available)	✓ (If footpath is not available)
Mobility device 	✓	✓	✓	✓ (If footpath is not available)	✓ (If footpath is not available)
Wheeled recreational device 	✓	✓	✓	✘	✓
Cycles and e-bike 	✘ (unless wheel diameter is 355mm or less)	✓	✓✓	✓✓	✓
✓✓ = Users have priority		✓ = Users are permitted		✓✓= Users have priority if permitted by road controlling authorities	
✓= Users are permitted but road controlling authorities can restrict use			✘ = Users are not permitted		

Issues with the current categories

The categories and rules presently governing the use of footpaths, shared paths, cycle paths and cycle lanes have not easily accommodated the growth of vehicles and devices like oversized mobility devices, e-scooters and e-skateboards.

While these devices have many benefits, they also introduce new challenges for regulators, like greater speeds, easier access through share schemes, and greater congestion on spaces like the footpath. In attempting to regulate these new and emerging vehicles, it has become clear that

present categories struggle to respond to these new challenges, and they need to be updated to accommodate new and emerging technology.

Proposed change

To enable better regulation of vehicles on footpaths, shared paths, cycle paths, and cycle lanes, we propose to change current vehicle and device categories into new categories to better reflect modern device and vehicle use in these spaces.

These changes will assist road controlling authorities in designing current and future infrastructure for different types of path users and setting requirements. It aims to help road controlling authorities manage different spaces to ensure all users feel safe and that their access is prioritised appropriately.

Broadly speaking, these categories are proposed to include:

- Pedestrians
- Powered wheelchairs
- Mobility devices
- Unpowered transport devices
- Powered transport devices
- Cycles and e-bikes

We are seeking your feedback on what a change might look like and how it will affect you.

The diagram below, outlines what the different categories will look like and where they will be able to be used:

Types of devices/vehicles and where they can go under the proposed changes:					
Category	**Footpath** Speed limit: **15km/h** Width limit: **750mm**	**Shared path** Speed limit: **Matches adjacent roadway or 50km/h**	**Cycle path** Speed limit: **Matches adjacent roadway or 50km/h**	**Cycle lane** Speed limit: **Matches adjacent roadway**	**Road** Speed limit: **Signed speed limit on road**
Pedestrian 	✓✓	✓✓	✓	✓ (If footpath is not available)	✓ (If footpath is not available)
Powered wheelchair *(new category)* 	✓✓ (no width requirements)	✓✓	✓	✓ (If footpath is not available)	✓ (If footpath is not available)
Mobility device 	✓	✓	✓	✓ (If footpath is not available)	✓ (If footpath is not available)
Unpowered transport device *(new category)* 	✓	✓	✓	✓	✓
Powered transport device *(new category)* 	✓	✓	✓	✓	✓
Cycle and e-bike 	✓	✓	✓✓	✓✓	✓
✓✓ = Users have priority		✓ = Users are permitted		✓✓= Users have priority if permitted by road controlling authorities	
✓= Users are permitted but road controlling authorities can restrict use					

The proposals below explain these changes in more detail.

Proposal 1A: Pedestrians

Current State

The term pedestrian includes people on foot, un-powered wheelchairs and wheeled items used by those who are walking. For example, a person pushing a pram, or a shopping trolley is considered a pedestrian.

Pedestrians are recognised as the main users of the footpath. They can also travel in cycle lanes, cycle paths or on the road if there is no footpath available. Pedestrians are allowed on shared paths if permitted by road controlling authorities, or if there is no footpath available.

Proposed change

We propose to include powered wheelchairs in the definition of pedestrian. This intended to reflect that powered wheelchairs are crucial to the movement of the people using them. This is discussed in more detail under proposal 1B below.

Rule Reference. *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Section 3 (Requirements for pedestrians, riders of mobility devices, riders of transport devices and cyclists) and Part 2 (Definitions).*

Questions for your submission:

1. Do you think the inclusion of powered wheelchair as a pedestrian is appropriate? Why/why not?

2. Small children (aged six-years and below) riding a bicycle or other device are not considered pedestrians. Do you think they should be treated as pedestrians to ensure their access is prioritised above other users? Why/why not?

Proposal 1B: Powered wheelchairs

Current state

A powered wheelchair is categorised as a mobility device. They can be used on the footpath and shared paths, as well as the road, cycle lanes and cycle paths when footpaths are not available.

Currently, a powered wheelchair is not treated as a pedestrian, but an unpowered wheelchair is. This is inconsistent as both powered and unpowered wheelchairs travel at slow speeds (typically up to 6km/h) and are crucial to the movement of the person using it.

This can differ from a mobility device (like a mobility scooter), which may be important for a user to travel, but may not always be necessary to move from place to place. A mobility device also typically travels faster than a powered wheelchair. Given the major differences between these devices and their purpose, regulators should be able to distinguish between them, but the law does not currently allow for this.

Proposed change

The change will create a new category for powered wheelchairs. A powered wheelchair will be defined as a wheelchair propelled by mechanical power and operated by a joystick or software.

The change will add powered wheelchairs to the legal definition of pedestrian (which currently includes unpowered wheelchairs). This means a user of a powered wheelchair will always be treated as a pedestrian and will permitted in the same spaces as pedestrians.

This change helps to recognise the similarities in risk between powered wheelchairs, unpowered wheelchairs and pedestrians and sets them apart from a person using a much larger, faster, and higher risk mobility device, like a high-speed mobility scooter.

Where can powered wheelchairs be used?

Powered wheelchairs will be treated as pedestrians and will be able to travel on the footpath and on shared paths. They will also be able to travel in cycle paths, cycle lanes or on the road if there is no footpath available.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Section 3 (Requirements for cyclists, riders of transport devices and mobility devices and pedestrians) and Part 2 (Definitions)*

Questions for your submission:

1. Do you support the proposal to define a powered wheelchair as its own category? Why/why not?
2. Under the proposed changes, any person using a powered wheelchair will have the same level of access as a pedestrian. Do you support this? Why/why not?
3. Do you think there are any other vehicles, devices or users that should have their own category or have the same level of access as pedestrians? Please explain.

Proposal 1C: Changing wheeled recreational devices

Current state

Wheeled recreational devices (WRDs) are defined as a device with wheels, propelled by human power, gravity or a small motor with a maximum power output of up to 300 watts.

It excludes cycles with a wheel diameter greater than 355mm. This means that most cycles are excluded from this category. But cycles and e-bikes, with a wheel diameter of 355mm or less, are considered both a cycle and a WRD.

Typical examples of these devices include push-scooters, skateboards, in-line roller skates and low powered versions of these devices like e-scooters and e-skateboards.

Unpowered WRDs are currently permitted on the footpath and the road. They can also be used in shared paths and some cycle paths if permitted by a road controlling authority.

Issues with different types of wheeled recreational devices:

Due to the emergence of new technology, the definition of WRD now includes a range of diverse devices. For example, roller blades and e-scooters are both WRDs, yet travel at different speeds. Most e-scooters can reach speeds up to 25km/h, while roller blade users average about 12km/h. These devices are also used in different ways. For example, it is rare for roller blades to be used on the road, but common for e-scooters.

The category also poses a challenge for road controlling authorities who wish to regulate spaces like the footpath. If, for example, a council wants to ban the use of devices like e-scooters and skateboards on a footpath, that council would either need to specifically list the types of devices

that are banned (this list could unintentionally exclude devices that are similar in speed and use) or ban all wheeled recreational devices entirely, which would restrict access to low risk device users.

Issues with the definition of wheeled recreational device

Currently, a range of low-powered wheeled recreational devices (e.g. e-skateboards, powered unicycles, and hoverboards) are also defined as motor vehicles and are not permitted on the footpath.

This can be confusing as a device that fits the definition of a wheeled recreational device is intended to be used on the footpath. It is also a conflict within the Rule.

How are these devices also considered motor vehicles?

A motor vehicle is defined as "a vehicle drawn or propelled by a mechanical power" and is only permitted on the road. While this definition typically applies to larger vehicles like cars, it is also broad enough to include smaller, low-powered WRDs like e-skateboards, powered unicycles, and hoverboards.

Are any devices excluded from this shared definition?

The definition of 'motor vehicle' excludes vehicles or devices that have been declared by the Transport Agency not to be a motor vehicle.[2] So far, the Transport Agency has made declarations for e-bikes[3], yikebikes and e-scooters. All other low-powered wheeled recreational devices are considered both motor vehicles and WRDs.

What definition applies to these devices? Are they permitted on the footpath, or are they excluded?

The definition of motor vehicle supersedes the definition of wheeled recreational device. This means that all low-powered devices (except for e-bikes, yikebikes and e-scooters) are treated as motor vehicles and are not permitted on the footpath – unless the Transport Agency declares they are not motor vehicles.

The table below outlines the types of devices that are not motor vehicles and the types of devices that are currently considered both motor vehicles and wheeled recreational devices:

[2] Under section 168A (2) and (3) of the Land Transport Act, the New Zealand Transport Agency may declare a vehicle not to be a motor vehicle.

[3] E-bikes (with a maximum power output of 300 watts) have been declared not to be a motor vehicle but are treated as a cycle. Currently, they are not permitted on the footpath (unless their wheel diameter is 355mm or less).

*Devices that have been declared **not** to be motor vehicles*	*Allowed on footpath*	*Devices that **are** motor vehicles (there has not been a declaration to date)*	*Not allowed on footpath*
Yikebike 	✓	**Hoverboard** 	✗
e-scooter 	✓	**e-skateboard** 	✗
e-bike 	✓	**electric unicycle** 	✗

These definitions make it difficult for users to understand where and how they can use their devices.

Proposed change

The proposed change will replace the wheeled recreational device category with two new groups of devices. These will be:

- Unpowered transport devices (e.g. push-scooters, skateboards)
- Powered transport devices (e.g. e-scooters, yikebikes)

Together, unpowered and powered transport devices will be referred to as transport devices.

Helmet use

Current requirements to wear helmets are not being addressed as part of Accessible Streets. This means people using unpowered and powered transport devices like skateboards, e-scooters and other devices will continue to be encouraged to wear helmets, but this will not be compulsory.

We are aware there remain different views about the benefits of helmet requirements. On one hand, helmets provide a level of protection to individual users in the event of some crashes. On the other, there is evidence that the mandatory requirement serves as a deterrent to the uptake of active travel, which is likely to reduce health and other benefits; although this is debated.

Unpowered transport devices

The proposed change will create a category that includes small unpowered devices (like skateboards, push scooters and roller blades) that are propelled by human power or gravity.

Where can unpowered transport devices be used?

Unpowered transport devices will be permitted on the footpath, cycle paths, shared paths and cycle lanes[4] (unless a road controlling authority excludes them) and the road.

Powered transport devices

The proposed change will create a category for low-powered devices that are propelled by a motor and declared by the Transport Agency not to be a motor vehicle.

This reflects the status quo, while removing the current conflict where some powered devices are both wheeled recreational devices and motor vehicles. Motor vehicles will still be prohibited from using the footpath, as they are currently.

This category also distinguishes these types of devices from those that are not motorised like skateboards or roller blades.

The new category will not change the types of devices currently permitted on the footpath. If the proposed powered transport device category is introduced, it will include yikebikes and e-scooters. All other devices such as e-skateboards and powered unicycles will still be motor vehicles unless the Transport Agency declares them not to be motor vehicles.

The Transport Agency proposes to wait until the Accessible Streets framework is introduced before proceeding with any declaration decisions regarding devices currently defined as motor vehicles.

What if a declaration is made in the future?

The Transport Agency can declare a device not to be a motor vehicle, if it meets the criteria set out the Land Transport Act 1998:

- Devices with a maximum power output of 300 watts[5] or,
- Devices with a maximum power output between 300 and 600 watts.[6]

The Transport Agency can impose conditions on devices with a maximum power output between 300 and 600 watts. For example, if an e-bike with an output of 600 watts is declared not to be a motor vehicle, the Transport Agency could impose a condition that requires all users to wear a helmet when riding. This will not apply to devices with a maximum power output of 300 watts.

Use of Segways

Segways typically have a maximum power output of 1500 watts. Their power output is too high for a declaration to be made for use on the footpath as a powered transport device.

In 2011, a Segway user was prosecuted by Police for using the device on footpath on the basis that it was a motor vehicle. In 2014, the District Court ruled that the Segway being used was a mobility device and should was be permitted to use the footpath.

[4] More information about transport device use in cycle lanes and cycle paths are explored in proposal 3.

[5] This would apply to declarations made under section 168A (2) of the Land Transport Act 1998.

[6] This would apply to declarations made under section 168 (3) of the Land Transport Act 1998.

While this judgement clarified the legal status of the device in question, the judgement was also clear that it did not mean all Segways were mobility devices since the design and power output may differ. As a result, there is still some uncertainty about the legal status of Segways.

Resolving this uncertainty may require legislative change and will be dealt with by a more comprehensive review of vehicle classifications.

Where can powered transport devices be used?

These devices will be permitted on the footpath, in cycle lanes and cycle paths[7] (unless a road controlling authority excludes them). They can also be used in a shared path if a road controlling authority permits it.

These new categories capture the difference between wheeled recreational devices that are powered and those that are unpowered. This can help road controlling authorities assess where these different types of devices can be used without unnecessarily restricting other devices.

Regulations Review Committee complaints about e-scooter declarations

On 26th March 2019, a complaint regarding the decision to declare e-scooters not to be motor vehicles was brought to the Regulations Review Committee. The complaint called the decision a significant shift in policy and footpath use and criticised the Transport Agency for not properly considering the people it would affect. In particular, the complaint criticised the decision not to consult with the disability sector, or the public, and the short span of time it took the Transport Agency to make the declaration. The Regulatory Review Committee received two further complaints which expressed similar views.

The Transport Agency, the Ministry of Transport and the Associate Minister of Transport responded to the complaints, noting that the decision was taken in light of the existing land transport rules that applied to these devices and the extensive rule-making powers in the Land Transport Act 1998. The proposed rule changes in Accessible Streets are designed to manage the risks associated with new and emerging technologies that are, or might in the future, operate on the footpath.

However, the Associate Minister of Transport also acknowledged there is a lack of statutory guidance in section 168A for exercising this delegated legislative power, and a lack of ability to impose conditions on vehicles with a power output below 300 watts. We have posed some questions below around these issues, which could inform future changes to the Land Transport Act.

Accessible Streets and NZ Transport Agency declarations

The rule changes proposed as part of the Accessible Streets Rules package will create a framework for the use of devices on footpaths, shared paths, cycle paths and cycle lanes. The proposed rules are expected to help a range of users understand how they are meant to operate and behave when they are using their devices in certain spaces.

The Transport Agency proposes to wait until the Accessible Streets framework is introduced before proceeding with any declaration decisions regarding devices currently defined as motor vehicles.

The Transport Agency will need to undertake a safety investigation which considers the impact of permitting a device on the footpath, before deciding whether to declare a device not to be a motor vehicle. A safety investigation could include but is not limited to: reviewing crash and incident statistics, a review of how it will impact users and non-users, and how other countries have regulated the device.

[7] More information about transport device use in cycle lanes and cycle paths are explored in proposal 3.

We would like to hear your thoughts about the Transport Agency's decisions to declare e-bikes, yikebikes and e-scooters not to be motor vehicles as well as your thoughts regarding the Transport Agency's powers to make declarations. Question prompts are below in the 'questions for your submission' box. Please refer to questions 6, 7 and 8.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins: Section 3 (Requirements for cyclists, riders of transport devices and mobility devices and pedestrians) and Part 2 (Definitions)*

Questions for your submission

1. What do you think about the proposal to replace wheeled recreational devices with unpowered and powered transport devices categories?
2. Transport devices will be permitted on the footpath, unless excluded by road controlling authorities. Do you think this will help maintain a safe environment on paths and roads? Why/why not?
3. Do you think transport devices should include other requirements, such as user age, or the speed limit of the vehicle/device?
4. Do you think the Transport Agency should be able to impose conditions on vehicles with a maximum power output of 300 watts or less?
5. If the Transport Agency declares a vehicle is not a motor vehicle, do you think the Transport Agency needs to impose further conditions for use? If so, what should these conditions be?
6. Do you think there should be certain requirements to use powered transport devices with a higher power output (e.g. between 300 and 600 watts)? If so, what should these requirements be?
7. Segways will continue to be excluded from using the footpath under the proposed changes. Do you think this is appropriate?

   6(a) Do you think that the Transport Agency should have the ability to declare Segways not to be motor vehicles?

8. What should the Transport Agency consider when declaring a vehicle or device not to be a motor vehicle?
9. What process do you think the Transport Agency should have to go through before declaring a vehicle not to be a motor vehicle?

For more questions related to these devices, refer to proposals 2 and 3.

Proposal 1D: Clarifying cycle and e-bikes

Current state

Cycles (which includes adult tricycles) and e-bikes are treated as their own vehicle category. However, cycles with a wheel diameter of 355mm or less (typically a cycle ridden by six-year-old) is considered a wheeled recreational device and a bicycle.

E-bikes have a maximum power output of 300 watts. An e-bike that exceeds this limit is not included in the cycle category.

Those on cycles and e-bikes are not permitted on the footpath but can be used in cycle paths, cycle lanes and on the road. They are also allowed on shared paths if permitted by a road controlling authority.

Proposed change

Cycles and e-bikes will continue to be a separate category of vehicle.

Where can cycles and e-bikes be used?

Under the proposed changes outlined in proposal 3, bicycles will be permitted on the footpath, provided the bike or e-bike is less than 750mm in width, the user travels at 15km/h or less and behaves in a way that is considerate, does not constitute a hazard and gives way to pedestrians. Cycles and e-bikes will continue to be used in cycle paths, cycle lanes and on the road. They will also be permitted on shared paths if a road controlling authority permits it.

Maximum power output on e-bikes

The proposed changes will not change the maximum power output requirements (300 watts) of e-bikes. This will be reviewed as part of later work.

Rule Reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Section 3 (Requirements for cyclists, riders of transport devices and mobility devices and pedestrians) and Part 2 (Definitions).*

Clauses in Land Transport (Road User) Rule 2004: Clause 1.6 (Interpretation)

Clauses in Land Transport Rule: Vehicle Standards Compliance 2002: Part 2, Table A (Vehicle Classes)

Questions for your submission

1. Under the proposal, cycles and e-bikes will continue to have their own category. Do you agree with this? Why/why not?
2. Do you think that cycles should be treated differently to e-bikes? Why/why not?
3. Do you think that a maximum power output of 300 watts is appropriate for e-bikes? Would you prefer this requirement was higher/lower?
4. Do you think the maximum power output requirements for e-bikes (300 watts) is the best way to ensure the safe use of e-bikes in different spaces? Why/why not?
5. If you think a maximum power output is not a safe requirement, what is an alternative option to regulate the use of e-bikes?

For questions related to footpath use by cycles and e-bikes, refer to proposal 3.

Proposal 1E: Mobility devices

Current state

Mobility devices refers to a group of devices or vehicles for those who require mobility assistance for medical purposes (like a physical or neurological impairment). They are powered by a motor with a maximum power output of 1,500 watts. Mobility scooters and powered wheelchairs are currently the most common example of a mobility device.

Users of mobility devices typically have the same level of access as pedestrians and tend to use the footpath. They can also travel in a cycle lane, cycle path or shared path if there is no footpath available, or if they are permitted by a road controlling authority.

Issues with the term 'mobility device'

The definition of mobility devices is incredibly broad and as a result, devices of varying size and speed are used on the footpath and elsewhere. This can be restrictive and dangerous for other users.

Proposed change

As outlined under proposal 1B, powered wheelchairs (which are currently defined as a mobility devices) will have their own category.

The mobility device category will be reviewed as part of future vehicle classification work. We welcome your suggestions on what new categories might look like.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Section 3 (Requirements for cyclists, riders of transport devices and mobility devices and pedestrians) and Part 2 (Definitions).*

Clauses in Land Transport Act 1998: Section 2(1) (Interpretation).

Questions for your submission

1. Mobility devices have the same level of access as pedestrians but are treated as a separate category. Do you support this? Why/why not?
2. Are you a user of a mobility device? If so, what kind of device do you have, and do you have any issues in accessing footpaths and shared paths?
3. Do you currently face any problems (safety/access-related or otherwise) around your personal use of your mobility device? Please explain.
4. Do you currently face any problems (safety/access-related or otherwise) around the use of mobility devices by other users? Please explain.

Additional questions for road controlling authorities:

5. Do you think that there are adequate processes in place to enable variation of devices in different spaces to be made by local government?

PROPOSAL 2: Clarifying what types of vehicles should be allowed on the footpath and under what conditions

Current state

There are three types of users currently permitted on the footpath; pedestrians, users of mobility devices, and users of wheeled recreational devices. These users and their definitions are outlined in the table below:

User	Description
Pedestrian 	The term pedestrian includes people on foot, un-powered wheelchairs and wheeled items used by those who are walking. For example, a person pushing a pram, or a shopping trolley is considered a pedestrian. Pedestrians are typically the main users of the footpath.
Mobility device user 	Mobility devices refers to a group of devices or vehicles intended for those who require mobility assistance for medical purposes (like a physical or neurological impairment). They are powered by a motor that has a maximum power output of 1,500 watts. Mobility scooters are the most common example of a mobility device.
Wheeled recreational device user 	Wheeled recreational devices (WRDs) are defined as a device with wheels, propelled by human power, gravity or a small motor with a maximum power output of 300 watts. It excludes cycles with a wheel diameter exceeding 355mm. This means that most bicycles and e-bikes are excluded from this definition. Typical examples of wheeled recreational devices include scooters, skateboards and in-line roller skates and includes the motorised versions of these devices (like e-scooters and e-skateboards). Cyclists can use the footpath when delivering mail and circulars but are otherwise not permitted to ride on the footpath.

Issues with the current use of the footpath

Current rules require footpath users to behave in a courteous and considerate manner, and to travel in a way that does not constitute a hazard to other footpath users. There is also the potential for prosecution for inconsiderate, careless, dangerous and reckless driving. However, there are no restrictions on the speed users can travel, or the size of a device when on the footpath.

As a greater number of new, fast-moving devices are used on the footpath, there is a need to ensure they are operated safely and with other users (particularly pedestrians) in mind. Current behavioural requirements do not help users understand who they should prioritise when travelling, what a safe speed for footpath travel is, or how much space they should occupy when on the footpath. This gap in understanding and regulation means that many are riding on the footpath in a way that can put more vulnerable footpath users at risk.

The current requirements can also be unfair to particular users. For example, most children over the age of six (when they begin to ride cycles with larger wheels) cannot legally ride on the footpath, while adults on e-scooters and mobility devices can.

In the longer-term, changes to the design of urban spaces will help mitigate the risks associated with a mixture of pedestrians and devices in different spaces; in the interim, changes to the regulatory environment on the footpath are needed to enable the safe passage of a range of different users.

Proposed change

To supplement the changes outlined in proposal 1, the change proposes a new rule, the Land Transport Rule: Paths and Road Margins 2019. The proposed new Rule aims to redefine the users of footpaths, shared paths and cycle paths and gives effect to a national framework that outlines the types of vehicles that are allowed on footpaths and how they can be used. The Rule also provides a mechanism for road controlling authorities to vary parts of this framework.

This proposal will focus on what this means for footpath use.

A national framework for the use of vehicles on the footpath

The changes would require users riding on the footpath to:

- Operate in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right-of-way to pedestrians.
- Not travel faster than 15km/h (to ensure the safety of others sharing the footpath)
- Not ride a device wider than 750mm (to ensure multiple users can still access the footpath)

The framework would permit the following types of vehicles on the footpath (if they follow the above requirements):

- Powered wheelchairs (would not be required to follow width requirements)
- Mobility devices
- Transport devices (replaces wheeled recreational devices)
- Cycles, including e-bikes

Pedestrians walking or running on the footpath will not need to follow these requirements. The changes are meant to assist a variety of users to access safe spaces to travel, while maintaining and prioritising the access of pedestrians.

Transport device use on the footpath

Under the proposed change, users of unpowered transport devices (e.g. skateboards, roller blades) and powered transport devices (e.g. e-scooters and yikebikes) will be permitted on the footpath, provided the device is less than 750mm in width, the user travels at 15km/h or less and behaves in a way that is considerate, does not constitute a hazard and gives way to pedestrians.

Future-proofing the rule

The proposed rules are designed to manage the possibility of new and emerging technologies including, small driverless delivery vehicles that might operate on the footpath for some, or all, of their journey. The framework would limit these vehicles' use of the footpath if, for example, they were too large, or were unable to prioritise the passage of pedestrians.

Use of helmets on footpaths

Current requirements to wear helmets are not being addressed as part of Accessible Streets. This means people using other devices like e-scooters, skateboards, and other vehicles will not be required to wear helmets when travelling on the footpath, though will continue to be encouraged to do so.

We are aware there remain different views about the net benefits of helmet requirements. On one hand, helmets provide a level of protection to individual users in the event of some crashes. On the other, there is evidence that the mandatory requirement serves as a deterrent to the uptake of active travel, which is likely to reduce health and other benefits; although this is debated.

Enabling road controlling authorities to restrict devices from using the footpath or an area of footpaths

Currently, road controlling authorities can prohibit certain devices from accessing parts (zones or specific lengths) of the transport network. Signs and markings already exist for this purpose.

The new Rule aims to clarify and simplify how road controlling authorities can restrict the use of the footpath or an area of the footpaths to certain users. This means that a council, for example, could more easily restrict the use of a footpath in the centre of a town or city to only pedestrians and mobility devices. This restriction could extend over a collection of streets (referred to an area of footpaths).

National guidance will be developed to assist road controlling authorities when considering a restriction on certain users and consideration of this guidance will form part of a criteria.

Before restricting the use of a footpath or areas of footpaths, the road controlling authority will need to consider:

- Relevant guidance developed by the Transport Agency,
- Any alternative routes or facilities that will no longer be available to the user due to a restriction,
- Any other matter relevant to public safety.

The road controlling authority will need to consult with any party affected by the proposed restriction, give those parties reasonable time to respond, and take account of their submissions.

The Transport Agency will also have the power to investigate and direct road controlling authorities for compliance with this Rule.

Road controlling authorities will be required to mark restrictions on the footpath and if the restriction applies to an area of footpaths, mark the restrictions at the boundary points of that area.

[The elements of the framework are outlined in more detail in Proposals 1A-1C.]

Rule reference: *Clauses in the proposed Land Transport Rule: Path and Road Margins 2019: Clause 3.1 (Use of footpaths), Clause 5.1 (Road controlling authority may restrict use of footpath or other pedestrian facility) and Clause 5.2 (Criteria for restricting use of the footpath, shared path, or cycle path).*

Questions for your submission:

1. The proposed changes will allow mobility devices, transport devices, and cycles on the footpath, provided users meet speed, width and behavioural requirements. Do you support this? Why/why not?
2. Do you think the proposed new Land Transport Rule: Paths and Road Margins 2019 makes the requirements for footpath users easier to understand?
3. Do you think the proposed changes will make the footpath a safer environment? Why/why not?
4. Do you think that the proposed changes will make the footpath easier to navigate? Why/why not?
5. The proposed changes set speed, width and behavioural requirements when using a device on the footpath. Do you think there should be any other requirements? For example, the weight of the device, wheel size.
6. What do you think of the process road controlling authorities must follow before restricting users on the footpath? Should road controlling authorities do more/less?
7. Do you think restrictions on the use of vehicles on footpaths should apply equally to all users of the space? Or just apply to people of a certain age (e.g. over age 10, over age 12)? Please explain.
8. Do you think a driverless device should be permitted on the footpath?

Additional questions for road controlling authorities:

9. We are proposing that road controlling authorities consider and follow criteria in addition to their usual resolution processes if they want to restrict devices from using the footpath or change the speed limit on the footpath. As a road controlling authority:

   9 (a) How will this affect you?

   9 (b) Is there a more practical way to make these changes?

   9 (c) Can current resolution processes help restrict device use or speed on the footpath or is further work required?

10. Do you think the proposed new Land Transport Rule: Paths and Road Margins 2019 makes the requirements for footpath users and the powers of road controlling authorities easier to understand?

Proposal 2A: Users on the footpath will operate vehicles in a courteous and considerate manner, travel in a way that does not constitute a hazard and give right of way to pedestrians.

Current state

Current rules require footpath users to behave in a courteous and considerate manner, and to travel in a way that does not constitute a hazard to other footpath users. Wheeled recreational device users are also expected to give way to and prioritise pedestrians and mobility device users when travelling along the footpath.

Proposed change

The proposed change will preserve these requirements but will require all footpath users to give way and prioritise the passage of pedestrians. This means that cyclists will be required to give way to pedestrians on the footpath as well as any new and emerging devices. This recognises that with the influx of new and emerging vehicles like e-scooters, pedestrian use of footpaths still needs to be protected.

Enforcement

Footpath users who do not prioritise, or give way to, pedestrians on the footpath can be penalised for inconsiderate, careless, dangerous and reckless driving.

Risks

Because enforcement on the footpath is typically low, there is a risk that users will not give way to pedestrians on the footpath, particularly if policing is not visible. This could put vulnerable pedestrians at risk.

We expect to mitigate this risk through a public information campaign and encouraging other footpath users to intervene when a user is not prioritising the access of pedestrians.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins: Clause 3.1 (Use of footpaths).*

Questions for your submission:

1. Do you agree that pedestrians should always have priority on footpaths? Why/ why not?
2. Do you think that users of mobility devices should have equal priority with pedestrians on the footpath? Why/why not?
3. Are there any additional behavioural requirements you think should apply to people using vehicles or other devices on the footpath?
4. Is there anything else device users can do to better prioritise the access of pedestrians on the footpath?
5. Do you think the requirement to prioritise the passage of pedestrians will make the footpath safer for pedestrians? Why/why not?

Proposal 2B: Default 15km/h speed limit for vehicles using the footpath

Current state

Currently, there is no prescribed speed limit on the footpath. Users must behave in a courteous and considerate manner and travel in a way that does not constitute a hazard to others when using the footpath. There is also the potential for prosecution for inconsiderate, careless, dangerous and reckless driving.

As an increasing number of devices legally use the footpath at high speeds, there is a need to define an appropriate safe speed limit on the footpath to ensure the safe passage of other users and the safety of riders.

Proposed change

The proposed change will set a default speed limit of 15km/h when travelling on the footpath. This speed limit will apply to current footpath users, users of mobility devices, and users of transport devices. It will not apply to pedestrians walking or running on the footpath, or wheelchair users.

15km/h was chosen as it is around twice the speed of walking and slightly faster than the average speed that children currently cycle and scooter at on the footpath (10.2km/h and 10.9km/h respectively)[8].

Enforcement

It is recognised that a maximum speed limit is more enforceable than current requirements around maximum power output and wheel diameter. Device users may be penalised for travelling above 15km/h on the footpath.

However, there could also be a practical challenge for users to monitor their own speed when some devices do not have speedometers and many existing speed detection devices are known to be less accurate at lower speeds.

Road controlling authority powers to vary the speed limit

All footpaths will have a default speed limit of 15km/h. To meet the needs of different regions, road controlling authorities will be able to reduce the default footpath speed to one of the following:

- 5km/h
- 10km/h

Road controlling authorities will be able to set this speed by registering the limit on the National Speed Limit Register. This speed limit could apply to a singular footpath or an area of footpaths. This means if a council, for example, wants to limit the speed limit on the footpaths surrounding a school, they could do so.

Before setting this speed, road controlling authorities will need to consider:

- Any relevant guidance developed by the Transport Agency
- Any other matter relevant to public safety

Road controlling authorities must consult with any parties affected by the proposed speed limit, allow reasonable time for parties to make a submission, and take account of their submissions.

Higher speed limits on the footpath

The Rule will not allow road controlling authorities to set a speed limit higher than 15km/h on the footpath. Footpaths are often narrow and largely intended for passage of pedestrians. Speeds on the footpath should remain relatively low to limit risk to pedestrians and other users, while still maintaining access for other device users.

If road controlling authorities want to allow other users to travel at higher speeds, they can do so on wider paths like a shared path. Maintaining a low speed on the footpath is intended to encourage the creation of separate infrastructure that provides for higher speeds and space for users like e-scooters without impeding on the safety of pedestrians.

Signs and markings

Footpath markings showing 5km/h, 10km/h and 15km/h are proposed to be made available in the Land Transport: Traffic Control Devices Rule 2004. Road controlling authorities would be required

[8] Randall, Edward, Baland, Romane, and Keall, Michael. (2018). Children cycling on footpaths, NZMI 9 March, Vol 131 No1471

to mark the speed limit on the footpath or at the boundary of an area of footpaths where a different speed limit applies.

Risks

Given the low level of enforcement activity directed at footpath use, there is a risk that vehicles will be operated at speeds above the proposed 15km/h once their use on the footpath is legitimised, particularly if policing is not visible. Due to the potential speed differences between users, this may cause safety issues especially for more vulnerable users.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Clauses 4.3 (Default speed limit on footpaths), Clause 4.4 (Variations from default speed limit on footpath), Clause 4.7 (Criteria for setting speed limits on paths), Clause 4.8 (Consultation requirements for speed limits on paths), Clause 4.9 (Setting speed limits on paths) and Clause 4.10 (Markings for speed limits on paths).*

Clauses in proposed Land Transport Rule: Traffic Control Devices Amendment 2019: Clause 2.2 (Amendment to clause 5.2 – Provision of markings)

Questions for your submission:

1. Is a 15km/h speed limit for footpaths appropriate? Why/why not? Should the speed limit be higher/lower?

2. Not all transport devices have mechanisms for determining speed, are there better ways to make the footpath safer than setting a speed limit for transport devices? Please explain.

3. Do you live in an area where e-scooter sharing schemes like Lime or Flamingo have limited speeds on their devices in certain 'slow zones'? If so, are these slow zones effective? (please state if you are user/non-user of e-scooters in your answer.)

Additional questions for road controlling authorities:

4. We are proposing that road controlling authorities consider and follow criteria in addition to their usual resolution processes if they want to lower the default speed on the footpath. As a road controlling authority:

   4 (a) How will this affect you?

   4 (b) Is there a more practical process than the criteria proposed?

   4 (c) Can the current resolution processes help restrict device use on the footpath or is further work required?

5. Under the proposed changes, road controlling authorities will not be able to set a speed limit greater than 15km/h on the footpath. Is this appropriate or too restrictive? Please explain.

Proposal 2C: 750mm width restriction for vehicles that operate on the footpath

Current state

Devices and vehicles that are allowed on the footpath do not have a width restriction. However, cycles with a wheel diameter exceeding 355mm (a wheel size that typically fits a cycle ridden by a five or six-year-old) cannot be used on the footpath.

This means that most children (and all adults) are currently prohibited from cycling on the footpath. In practice, younger cyclists tend to ride on the footpath for most of their trips, unaware that this is illegal. To most children and their parents, the footpath is seen as the safest option, and the New Zealand Police and the Transport Agency recommend that children under the age of 10 only ride on the road when accompanied by a competent adult rider.

Other cyclists use the footpath at some point in their journey in response to unsafe road environments. For example, when there is heavy, fast-moving traffic and a cycle lane is not available. The current settings mean that this action, taken in the interest of safety, is not allowed.

There are also devices (such as larger mobility devices) that fit the wheel size requirements but take up the entire footpath when they travel. This can impact another user's access to the footpath as they must walk or travel behind the large device, or walk on the road, which can be dangerous.

Proposed change

The proposed change will create a general width requirement of 750mm for all devices using the footpath. This means that users will be able to ride a cycle or other device on the footpath, if that device or cycle is 750mm or less in width. 750mm is half the clear width of a narrow footpath, which will ensure that the footpath can be shared between users.

Powered and un-powered wheelchairs will still be able to use the footpath if they exceed this limit.

Cycles that exceed 750mm

We understand most cycles are less than 750mm wide. However, there may be some cycles with particularly wide handlebars that exceed this width. Users of these cycles would not be permitted on the footpath.

Devices for medical or mobility purposes that exceed 750mm

Devices used for medical or mobility purposes will not be permitted on the footpath if the device exceeds 750mm. Mobility scooters (which have an average width of around 660mm) will not be affected by this change. Wheelchairs (both powered or unpowered) will be exempt from this limit.

However, there are already mobility devices for sale in New Zealand that exceed 750mm. Cabin mobility scooters (covered in mobility scooters), for example, have an average width of 800mm.

There are also oversized devices known as mini electric cars or 'twizys', which are enclosed four-wheeled electric devices with an average width of 1190mm. These devices are not viewed as mobility devices by the Transport Agency but are owned by some New Zealanders.

We currently have limited information about devices that exceed 750mm in width and how many people use these types of devices for mobility purposes on the footpath. While the 750mm limit is intended to provide plenty of space to all footpath users, the proposed width limit may not be suitable for a range of users who already ride and depend on a wider device. If you use or supply a mobility device that is wider than 750mm, we are interested in your feedback on the type of device you own, the size and width of this device and where it is used.

Exemptions for devices that exceed 750mm

If the proposed restriction is introduced, users who already own these types of devices and use them for medical or mobility purposes may be able to apply for an exemption from the NZ

Transport Agency to continue using their device on the footpath. Users will need to pay a fee of $27.80 to apply.

To be granted an exemption, the user will need to show that the risk to safety will not be significantly increased by being permitted on the footpath. The user will also need to show that:

- Requirements have been complied with and further compliance is unnecessary; or
- providing an exemption is as effective or more effective than actual compliance with the width requirements; or
- the prescribed requirements are unreasonable for the user or,
- events have occurred that make the width limit inappropriate for the user.

These criteria are set in legislation and will need to be considered by the Agency whenever an application for an exemption is made. This means that even if a wide mobility device was purchased before the introduction of the width limit, the above criteria will still need to be met for an exemption to be granted. Likewise, if an exemption is granted for a device, this does not guarantee an exemption will be granted for a similar device. The Transport Agency grants exemptions on a case by case basis and may consider its own guidance on mobility devices before deciding to grant an exemption. Existing guidance on the importation of mobility devices suggests that mobility devices should not exceed 850mm.[9]

Risks

It is currently unclear how many users rely on devices that exceed 750mm in width. If the number of users is significant, this could result in a number of users being disadvantaged by the proposed change.

Requiring users to apply for an exemption could also put an unnecessary financial burden on those who need these devices for medical reasons. It is unlikely that the NZ Transport Agency will grant exemptions for electric mini cars or ‘twizys’ as it is the Agency’s view that these devices should not be treated as a mobility device or used on the footpath. This could disadvantage vulnerable users who have already purchased a ‘twizy’ as they would not be permitted on the footpath.

Alternative approaches to mitigate the impact on existing device owners

In addition to the existing exemption process, we are interested in your feedback on whether other steps should be taken to mitigate the impact of the proposed width limit on owners of existing mobility devices that are over 750mm wide.

For example, mobility devices purchased prior to the rule changes could be automatically exempt from the width limit. This would mean owners of existing mobility devices would not be unfairly disadvantaged. However, we recognise this could be difficult to enforce, as it would be challenging for enforcement authorities to prove whether a mobility device was purchased before the changes were introduced.

Alternatively, or in addition, we could introduce a change where wider devices that are over 750mm wide and declared to be mobility devices under section 168A of the Land Transport Act are excluded from the width requirements. Once declared to be a mobility device, devices over 750mm would be permitted on the footpath. This could help mitigate the risks associated with vehicles that are being sold as mobility devices that resemble small cars.

[9] Transport Agency guidance on importing mobility devices can be accessed here: https://www.nzta.govt.nz/assets/Vehicles/docs/General-guidance-on-what-to-look-for-when-importing-a-mobility-vehicle.pdf

Given we know there are existing mobility devices that are over 750mm wide, a separate width limit could apply to mobility devices. However, we recognise allowing wide vehicles on the footpath creates risks for other users and could make sharing some footpaths more difficult.

Questions 7-10 below seek specific feedback on these options

Allowing cyclists on the footpath

The proposed amendment will allow cyclists to ride on the footpath provided the cycle is not wider than 750mm, operated in a considerate manner, ridden below the speed limit, and the rider gives way to pedestrians. The amendment would also allow people to ride on a formed path or lawn (on the berm) if this is necessary to pass or give way to another footpath user. However, this would exclude riding through any cultivated gardens on the berm.

The change will also mean cyclists can use pedestrian crossings to safely cross the street if they are travelling on the footpath. They will still need to give right of way to pedestrians, as they do on all other parts of the footpath. This is expected to accommodate children cycling at slow speeds in places where cycling on the road would put them at risk and support the safety of adult cyclists where cycling infrastructure is not available. Cyclists travelling on the road will not be expected to cross the road using pedestrian crossings.

Allowing cyclists on the footpath under the proposed conditions is not expected to significantly increase the number of cyclists that choose to use the footpath. Research carried out for the Centre for Accident Research and Road Safety in Queensland (where cycling on the footpath is legal) found that only 5 percent of all cycling distance ridden occurred on footpaths, and most did so reluctantly and for small parts of their trip.[10] We expect cyclists in New Zealand to behave the same way, particularly due to the 15km/h speed limit proposed for the footpath.

Enforcement

A width limit is likely to be more enforceable than current requirements around power output and wheel diameter. Those on devices wider than 750mm could be penalised.

Risks

Allowing anyone to cycle on the footpath may mean people walking on the footpath feel and are less safe, especially vulnerable pedestrians, such as the elderly, young children 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 by others using the footpath.

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, encouraging many cyclists to continue riding on the road or cycleways in most circumstances.

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

Imposing a width limit of 750mm may exclude some devices such as wider mountain bikes and some mobility devices.

Exemptions

[10] Haworth, Narelle L. & Schramm, Amy J. (2011) Adults cycling on the footpath: what do the data show? In Australasian Road Safety Research, Policing and Education Conference, 6-9 November 2011, Perth Convention and Exhibition Centre, Perth, WA. https://eprints.qut.edu.au/49906/5/49906.pdf

Existing exemption powers that provide the Transport Agency with power to exempt vehicles from specific legislative requirements, will be maintained. NZ Post's Paxster small electric delivery vehicles currently operate under a provision that allows mail delivery services to operate motor vehicles on the footpath. They are expected to be exempt from the minimum width requirement but would still need to comply with the proposed speed limit of 15km/h when on the footpath.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Clause 3.1(1) (Use of footpaths)*

Questions for your submission

1. Is a 750mm width restriction for vehicles being used on footpaths appropriate? Why/why not?
2. Should width limits for footpath use be introduced through a transitional period to allow time for wide-device users to seek an exemption?
3. Do you think that the vehicle width measurements should only apply to fixed or common vehicle features like handlebars and wing mirrors? Or also apply to any accessories and auxiliary equipment on the vehicle?
4. Under the proposed changes, cycles that do not exceed 750mm in width will be allowed on the footpath and will be able to use pedestrian crossings (provided they are following all requirements). Do you think this appropriate?
5. This width limit will apply to cycles and other transport devices. In practice, this will mean some cycles with wide handlebars (such as some mountain bikes and some e-bikes) are not allowed to be used on footpaths. Do you think this is appropriate?
6. Exemptions may apply to devices like NZ Post Paxters or other devices that exceed 750mm in width. Do you think this is appropriate?
7. Should the width limit apply to devices that are used for mobility or medical purposes, or should a different width limit apply?
8. Should existing mobility devices that are over 750mm wide be exempt from the width limit?
9. Should vehicles over 750mm wide that have been declared to be mobility devices by the NZ Transport Agency be allowed on the footpath?
10. If you use a device for mobility or medical reasons, what is the width of your device?

PROPOSAL 3: Providing a regulatory framework for shared paths and cycle paths

Current state

Shared Paths

A shared path is a path, which may be used by pedestrians, cyclists, riders of mobility devices and riders of transport devices. A sign or marking can be used to give priority to a particular user (e.g. pedestrians or cyclists) or to exclude some users. An example of a shared path is pictured on the right.

Figure 3A: A Shared path

Cycle paths

A cycle path is a part of the road that is physically separated from motor vehicle traffic.[11] They are generally located next to the roadway. Cycle paths are intended for cyclists but can also be used by pedestrians and riders of mobility devices when a footpath is not available. An example of a cycle path is pictured on the right.

Figure 3B: A cycle path

Issues with shared paths and cycle paths

Similar to use on the footpath, shared paths and cycle paths are experiencing a greater number of users on a variety of different devices, but current rules do not help users understand who they should prioritise when travelling, and what speeds they should travel at to ensure the safe passage of others.

Neither shared paths or cycle paths have a prescribed speed limit. Often, the speed limit on these paths matches the adjacent roadway, but when there is no adjacent roadway, the speed limit is not clear. Likewise, while cycle paths are typically used by cyclists, it is not clear who has greatest priority on a shared path when there are many different types of users.

Issues for road controlling authorities to make shared paths and cycle paths

The requirements for creating shared paths and cycle paths are also complex and lack clarity. To create a shared path, road controlling authorities need to create a bylaw and install signs or markings that tell users who can use the path. There are no specific enabling provisions for the creation of shared paths, except for those related to sign and marking requirements. Meanwhile, cycle paths can be created using requirements outlined in the Local Government Act 2002 or the Land Transport Act 1998, but it isn't clear which requirements road controlling authorities should follow.

In the longer-term, changes to the design of urban spaces will help mitigate the risks associated with a greater variety of users in different spaces; in the interim, changes to the regulatory environment on these paths are needed and these regulatory changes need to be in one, easy to find place to assist road controlling authorities to create more of these spaces.

Proposed change

[11] Cycle lanes, by comparison, are painted lanes within the roadway, not separated from the rest of traffic.

The change proposes a new rule, the Land Transport Rule: Paths and Road Margins 2019. The proposed new Rule aims to redefine the users of footpaths, shared paths and cycle paths and gives effect to a national framework to govern which vehicles can be used on paths and under which conditions. The Rule aims to clarify, in one place, how these spaces are created, how they are used, and who has priority when using these spaces. The new Rule also provides a mechanism for road controlling authorities to vary parts of this framework.

This proposal will focus on what this means for shared path and cycle path use.

Road controlling authorities can declare a path to be a shared path or cycle path

Under the proposed changes, road controlling authorities will be able to declare a path to be a shared path or a cycle path by making a resolution.

Clarifying how users must behave on shared paths and cycle paths

Under the proposed changes, a person using a shared path or cycle path must:

- Travel in a careful and considerate manner,
- Travel in a way and at a speed that does not constitute a hazard to others,
- Travel in a way that does not block the passage of other users.

Unlike using the footpath, there will be no width requirements for users in shared paths or cycle paths.

Clarifying priority users in shared path

The proposed changes will also specify which user has priority when travelling on shared paths unless a sign or marking says otherwise. These are proposed in the table below:

User	Priority in shared path
Pedestrians	Pedestrians have greatest priority. All users must give way to pedestrians if they are travelling in a shared path.
Mobility device users	Mobility device users must give way to pedestrians, and all other users must give way to people riding mobility devices.
Transport device users	Transport device users must give way to riders of mobility devices and pedestrians. Cyclists must give way to transport device users.
Cyclists	Cyclists must give way to all other users in a shared path.

Speed limits for shared paths and cycle paths

Under the proposed changes, if a shared path or cycle path is adjacent to a roadway, the speed limit on that path will match the roadway. This means it is possible for a shared path or cycle path to have a speed limit of 100km/h if the adjacent roadway has a speed limit of 100km/h. This follows common practice by path users who currently acknowledge that the speed limit on a shared path or cycle path matches the adjacent roadway.

If a shared path or cycle is not located beside (or adjacent to) a roadway, then the proposed change clarifies that the path has a default speed limit of 50km/h.

There will be an offence for exceeding the default speed limit.

Enabling road controlling authorities to change the speed limit on a shared path or cycle path

The proposed changes will enable road controlling authorities to change the speed limit on shared paths and cycle paths if the default speed limit is inappropriate or unsafe for users.

Road controlling authorities will be able to change the speed limit, provided the new limit does not exceed 50km/h and is higher than 10km/h.

The 50km/h limit can be an option for local areas that require it. For example, if there is a cycle path largely used by e-bikes (which typically reach 45 km/h on the flat). However, we expect that many road controlling authorities will set limits lower than this as most devices or cycles typically reach speeds of up to 30km/h on the flat.

The lower 10km/h is for paths that may have more pedestrians, mobility devices or vulnerable users present. We have chosen 10km/h to ensure continued access for other device users, while maintaining a safer speed when travelling alongside those on foot.

If road controlling authorities want to change the speed limit on a shared path or cycle path, they will need to consider:

- Relevant guidance developed by the Transport Agency,
- Any alternative routes or facilities that will be available to the user if they are excluded from a path through a restriction,
- Any other matter relevant to public safety.

The road controlling authority will also need to consult with any party affected by the proposed restriction, give those parties time to respond, and take account of their submissions.

The road controlling authority will need to register the speed limit restriction on the National Speed Limit Register maintained by the Transport Agency.

The Transport Agency will also have the power to investigate and direct road controlling authorities for compliance with this Rule.

Enabling road controlling authorities to restrict devices from using a shared path or cycle path

The proposed change will allow road controlling authorities to restrict certain devices from using shared paths and cycle paths and provide criteria to consider when restricting those devices from use. This means if it is unsafe for a type of device to be used in certain spaces, a road controlling authority can restrict them from being used.

National guidance will be developed to assist road controlling authorities when considering restrictions on certain users in these spaces, and consideration of this guidance will form part of the criteria.

Road controlling authorities will be able to restrict the use of the shared path, cycle path or an area of these paths to certain devices and will be able to specify times at which these restrictions apply if needed. Road controlling authorities will not be able to restrict pedestrians and mobility device users from shared paths and cycle paths if there is no footpath available.

Before restricting the use of a shared path or cycle path, the road controlling authority will need to consider:

- Relevant guidance developed by the Transport Agency,
- Any alternative routes or facilities that will no longer be available to the user due to a restriction,
- Any other matter relevant to public safety.

The road controlling authority will need to consult with any party affected by the proposed restriction, give those parties time to respond, and take account of their submissions.

The Transport Agency will also have the power to investigate and direct road controlling authorities for compliance with this Rule.

The road controlling authority will need to register the restriction on the National Speed Limit Register maintained by the Transport Agency.

Signs and markings

A road controlling authority may install markings to inform path users of a speed limit, but the speed limit will be valid whether markings are installed or not. Similarly, road controlling authorities may install signs or markings to inform path users of a restriction, but the restriction will be valid whether the signs or markings are installed or not. This is similar to the approach taken for liquor ban areas.

Road controlling authorities will also need to follow the requirements in the Land Transport: Traffic Control Devices Rule 2004.

Use of helmets on shared paths and cycle paths

Current requirements to wear helmets are not being addressed as part of the Accessible Streets Regulatory Package. This means people cycling on all paths will still be required to wear helmets. People using other transport devices like e-scooters, skateboards, and other vehicles will continue to not be required to wear helmets but will continue to be encouraged to do so.

We are aware there remain different views about the net benefits of helmet requirements. On one hand, helmets provide a level of protection to individual users in the event of some crashes. On the

other, there is evidence that the mandatory requirement serves as a deterrent to the uptake of active travel, which is likely to reduce health and other benefits; although this is debated.

Rule reference: *Clauses in proposed Land Transport Rule: Paths and Road Margins 2019: Section 2 (Creation of shared paths and cycle paths), clause 3.2 (Use of shared paths and cycle paths), clause 3.3 (Priority on shared paths), Section 4 (Speed limits on paths), Section 5 (Restrictions on use of footpath, shared path or cycle path) and Part 2 (Definitions).*

Questions for your submission

1. Under the proposed changes, road controlling authorities will be able to declare a path a shared path or a cycle path without following any additional criteria besides what is required to pass a resolution. Do you think this is appropriate?

2. Do you think the proposed behavioural requirements to operate on a shared path or cycle path are appropriate? Are there any other requirements that could help make these paths safer?

3. Do you think there should be width requirements for use of a shared path or cycle lane?

4. Do you think all users should have access to shared paths?

5. The proposed changes allow for shared paths and cycle paths to share the same speed limit as an adjacent roadway (if there is one present). Do you think this is appropriate?

6. The proposed changes introduce a default speed limit of 50km/h on shared paths and cycle paths when there is no adjacent roadway. Do you think this is appropriate? Should the speed be higher/lower? Please explain.

7. The proposed changes mean that road controlling authorities will be able to change the speed limit on shared paths and cycle paths, provided the speed does not exceed 50km/h and is higher than 10km/h (in addition to following criteria). Do you think this is appropriate? Why/why not?

Additional questions for road controlling authorities:

7. We are proposing that road controlling authorities consider and follow criteria in addition to their usual resolution processes if they want to restrict devices from using shared paths and cycle paths or change the speed limit in these spaces. As a road controlling authority:

   7(a) How will this affect you?

   7(b) Is there a more practical process than the criteria proposed?

   7(c) Can current resolution processes help restrict device use on paths or is further work required?

8. Under the proposed changes, the Transport Agency will be able to investigate and direct road controlling authorities to comply with this Rule. Do you think this is appropriate? Why/why not?

9. What is the most effective way to allow variations to the types of users on shared paths and cycle paths to reflect local conditions? Please explain.

PROPOSAL 4: Clarifying road controlling authority powers around the use of berms

Current state

A berm is a plot of grass, dirt, or garden located beside the roadway. They are typically located on raised kerb but can be located beside a roadway without a kerb.

Figure 4A: A berm is a plot of grass, dirt, or garden located beside the roadway.

Vehicles frequently park on berms when there is no parking available on the road. In many instances, parking on berms can be a practical parking solution on narrow suburban streets to help improve access for traffic. Other times, parking on the berm can affect accessibility for pedestrians and device users by blocking their path and can cause visibility issues for drivers when exiting driveways (especially in areas with fast moving traffic). Parking on berms can also damage underground infrastructure.

There has been ongoing disagreement on the ability to restrict berm parking between road controlling authorities. In particular, Auckland Transport has a bylaw that prohibits parking on berms, but they consider it unenforceable unless signs are erected every 100m. On this basis, Auckland Transport has installed signage across approximately 48 locations across the Auckland region between October 2016 and February 2018. The cost of introducing these signs was approximately $50,000. Auckland Transport has also suggested that signs could create visual amenity issues.

Meanwhile, Christchurch City Council has a bylaw that prohibits berm parking that they consider is enforceable without the use of signs. The Christchurch City Council bylaw was made under the Land Transport (Road User Rule) 2004, which appears to allow a berm parking restriction through the making of a bylaw, without the use of signs.

In contrast, Auckland Transport made its bylaw under the Land Transport Act 1998, which (in combination with the Land Transport Traffic Control Devices Rule) appears to require signage to be erected.

This suggests there is a need for greater clarity on whether signs are required for berm parking restrictions. We are also aware that some RCAs would like the explicit ability to impose a general prohibition on parking on grass berms, through a bylaw, without the use of a sign or other markings to notify the public of the restriction.

Proposed change

The proposed change would clarify road controlling authority's powers to restrict berm parking.

Road controlling authorities will be able to restrict parking on a berm or an area of berms by passing a resolution and registering the restriction with the Transport Agency. All restrictions that are registered with the Transport Agency will be available to the public via an online register. A register is currently being developed.

Signs and marking requirements

If a road controlling authority has passed a resolution and registered a berm restriction with the Transport Agency, they may install a sign to inform the public that parking on the berm is not

allowed. However, a restriction is valid and enforceable whether or not signs are installed. This is similar to the approach taken for liquor ban areas.

Enforcement by the NZ Transport Agency

The Transport Agency will have the power to direct road controlling authorities to install, modify, or remove signage. The Transport Agency will also be able to investigate any authority who is misusing these powers.

Future proofing

Consideration needs to be given to different ways road controlling authorities can advise residents and drivers of berm parking restrictions if signs are not made available. We propose that information about all berm restrictions be available on an online register, but there may need to be alternative ways to help inform others if they are unable to access the website. For example, providing this information at a local library, town i-site or at the local council.

Risks

If there is no requirement to put up signs or markings, a vehicle could unknowingly park on a restricted berm and receive an infringement fee. This could be particularly problematic for people who are visiting areas with berm parking restrictions but may not be aware of those restrictions.

Rule reference: *Clauses in proposed Land Transport Rule: Footpaths, Shared Paths, and Cycle Paths 2019: Section 6 (Restrictions on motor vehicles parking on berms), clause 7.4 (Agency may direct road controlling authority to review restrictions on motor vehicles parking on berms) and Part 2 (Definitions)*

Questions for your submission:

1. Is there a problem with vehicles being parked on berms? If so, what is the nature of this problem (do vehicles obstruct visibility, create a safety risk, or cause damage)?

2. Do you frequently park on berms? If so:

   2(a) Why do you park on the berm?
   2(b) Do you perceive any safety risks from doing so?

3. Under the proposed changes, road controlling authorities will be able to restrict parking on an area of berms (i.e. restrict berm parking on a collection of streets). Do you think this is appropriate? Why/why not?

4. Under the proposed changes, road controlling authorities do not have to use signs to indicate a berm is restricted. This means a driver who unknowingly parks in a restricted zone could still receive an infringement fine for parking on a berm. Do you think this is appropriate?

5. If a road controlling authority chooses not to use a sign to indicate a berm parking restriction, but this information was available to check on a Transport Agency register, would you:

   5 (a) Find this helpful?
   5 (b) Require further information from other sources like a local library, i-site, or a local council?
   5 (c) Prefer councils to signal a restriction with signs?

PROPOSAL 5: Enabling safer and more accessible use of cycle lanes and cycle paths

Current state

Currently, transport devices like e-scooters and skateboards can be used on footpaths, shared paths, some cycle paths and on the road. However, they cannot be operated in on-road cycle lanes, and on some cycle paths if specified by council bylaw. This means that users of these devices, are supposed to use the road or the footpath, even if a cycle lane or cycle path is available.

Transport device users that travel on the road alongside other faster moving motor vehicle traffic can be exposed to greater safety risks. Use of transport devices on the footpath at higher speeds can also endanger other users on the footpath, particularly pedestrians.

Accident statistics in New Zealand show that between 2012 and 2018, 130 skateboarders and 232 wheeled pedestrians (including people on push scooters, people in wheelchairs and using mobility devices) were in injured in vehicle crashes. A further 1 skateboarder and 11 wheeled pedestrians were killed in the same period.[12]

Some of these users are already utilising cycle lanes. While limited data is available about where and how different types of transport devices are currently being used, a survey conducted as part of the Lime e-scooter trial in Christchurch found that, of the 2,298 people surveyed who used the devices, 28 percent preferred riding in on-road cycle lanes.

Allowing users of transport devices in alternative spaces, such as cycle lanes and cycle paths would help to remove the risks associated with travelling on the road and reduce risks for footpath users by providing a safer place for riders to travel at an increased speed. Some safety risk would inevitably transfer to existing users of cycle lanes by introducing additional users into this space.

Proposed change

The proposed change will allow transport devices (such as e-scooters and skateboards) to use cycle lanes and cycle paths. The rule change would encourage users of these devices to move off the footpath, and onto a defined strip within a roadway where they are less likely to come into conflict with either pedestrians or fast-moving motor vehicles because they are able to go faster than 15km/h.

All powered and unpowered transport devices (like e-scooters, kick scooters and skateboards) will still be permitted on other parts of the roadway – including footpaths and shared paths, and on the roadway (if they stay as far to the left as practicable).

Making this rule change will enable the accessibility benefits of transport devices like e-scooters to be better realised. It will help people to get to where they want to go in a way that aligns with the Government's goals of lowering transport emissions, creating more liveable cities and minimising disruption to others. This change will also improve the safety of other users as transport device users capable of higher speeds will be able to use cycle lanes instead of footpaths, where available.

Pedestrians and mobility device users may use cycle lanes and cycle paths when a footpath is not available or if it is impractical to use the footpath. This ensures that these users are not forced onto the roadway when a footpath is unavailable, and a cycle lane or cycle path is.

All slower moving users of cycle lanes, including transport device users, pedestrians and mobility device users will be required to keep as far to the left as is practicable.

Use of helmets in cycle lanes

[12] Data from the Crash Analysis System (CAS).

Current requirements to wear helmets are not being addressed as part of Accessible Streets. This means people cycling in cycle lanes will still be required to wear helmets. People using other transport devices like e-scooters, skateboards, and other vehicles will not be required to wear helmets but will continue to be encouraged to do so.

We are aware there remain different views about the net benefits of helmet requirements. On one hand, helmets provide a level of protection to individual users in the event of some crashes. On the other, there is evidence that the mandatory requirement serves as a deterrent to the uptake of active travel, which is likely to reduce health and other benefits; although this is debated.

Restrictions by road controlling authorities:

These changes would allow transport devices to use cycle lanes and cycle paths alongside cyclists. However, if road controlling authorities have location specific reasons to exclude their use, they can restrict those devices.

To restrict transport devices on cycle lanes and cycle paths, road controlling authorities will need to consider:

- Relevant guidance developed by the Transport Agency,
- Any alternative routes or facilities that will no longer be available to the user due to a restriction,
- Any other matter relevant to public safety.

The road controlling authority will need to consult with any party affected by the proposed restriction, give those parties time to submit, and take account of their submissions.

The road controlling authority will need to register the restriction on the National Speed Limit Register maintained by the Transport Agency.

The Transport Agency will also have the power to investigate and direct road controlling authorities for compliance with this Rule.

The creation of a cycle-only lane will not prevent pedestrians or mobility devices from using a cycle lane or cycle path if a footpath is not available.

Risks

There could be conflict between cyclists and transport device users in cycle lanes, particularly if users of these devices are travelling slowly, moving erratically or in a way that is different to the straight-ahead movement of cyclists (e.g. the side to side movement of people using rollerblades, or skateboards going downhill). However, cyclists already manage different speeds and overtake when required.

There may be increased conflict between cyclists and drivers as cyclists may need to leave a dedicated facility to overtake a transport device rider, in doing so entering the live traffic lane. More cyclists may also choose to ride on the road instead of cycle lanes if they perceive cycle lanes to be a slower environment, which could lead to more interactions (and potentially higher safety risks) between cyclists and cars.

Guidance will be provided recommending that transport devices travelling slowly, such as roller skates and children on push scooters, or slower powered transport devices like some powered unicycles, are ridden on footpaths and shared paths, and are not used in on-road cycle lanes or on the road

Rule reference: *Clauses in the proposed Land Transport (Road User) Amendment Rule (No2) 2019. Clause 7(4) (Cycle lane), Clauses in the proposed Land Transport: Path and Road Margins Rule 2019. Part 2 (Definitions).*

Questions for your submission:

1. Do you think that people other than cyclists should be allowed to use cycle lanes and/or cycle paths? Why/why not?
2. Do you think people on bikes should continue to be the priority users of cycle lanes and/or cycle paths, with other users required to keep left and give way to cyclists?
3. The proposal maintains that pedestrians and mobility device users can use cycle lanes and cycle paths (while keeping to the left) if there is no footpath available. Is this appropriate? Why/why not?
4. Do you think that cycle lanes and cycle paths are a safe environment for transport devices, including at night time? Why/why not?
5. Do you think that additional safety measures are needed for transport device users when travelling in cycle lanes and cycle paths?
6. Do you think road controlling authorities should be able to exclude/include powered transport devices or un-powered transport devices in certain cycle lanes and/or cycle paths? Why/why not?

Additional questions for road controlling authorities

8. Under the changes, road controlling authorities will be able to restrict transport devices from using cycle lanes and/or cycle paths by following criteria. As a road controlling authority:

    8(a) How will this affect you?

    8(b) Is this an effective process?

    8(c) Is there a more practical process than the criteria proposed?

PROPOSAL 6: Remove barriers to walking, transport device use, and cycling through changes in priority and legitimising common road user behaviours

People walking, cycling, riding a device, or taking public transport are often given less priority compared to those using motor vehicles. There are also situations where the law restricts pedestrians, cyclists and device users from engaging in safe behaviours that would improve their visibility or reduce conflicts with motor vehicles.

The following four proposals aim to reduce conflicts between people and traffic by improving the visibility of people and legitimising common road user behaviours. This is to make streets more active mode-friendly and improve efficiency for those choosing active transport modes by prioritising pedestrian, device user, cyclist and bus movements.

The four proposals are:

A) Allow cyclists and transport device riders to ride straight ahead from a left turn lane.

B) Allow cyclists and transport device riders to carefully pass slow-moving motor vehicles on the left (‘undertake’) unless the motor vehicle is indicating a left turn.

C) Give cyclists, transport device riders and buses priority over turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane.

D) Give priority to footpath, shared path and cycle path users over turning traffic when crossing a side road at locations where required traffic control devices are installed.

Question prompts are at the end of each proposal.

Proposal 6A: Allow cyclists and transport devices to ride straight ahead from a left turn lane

Current state

Cyclists and other transport devices need to keep as far to the left as practicable when on the road. But, once they reach an intersection, they are legally required to cross from a left-hand turning lane into the straight-ahead lane to travel straight ahead. This is pictured in figure 1A. Often, it can be difficult to find a gap to move safely into the straight through lane during heavy traffic. The added risk of travelling with increased traffic, moving at a faster pace, can increase the possibility and severity of an accident.

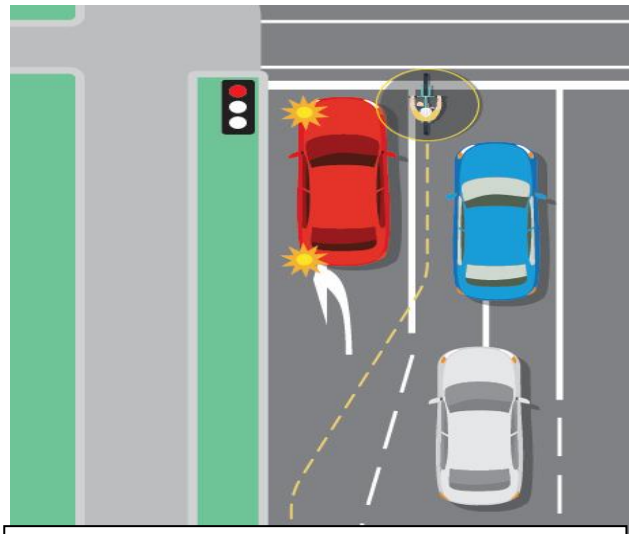

Figure 1A. Under the current state, cyclists and transport device users must legally cross from the left-hand lane to travel straight ahead.

Currently, an observed 80 percent of cyclists choose to ignore the rule[13], and use left-turning lanes to travel straight ahead, making the law inconsistent with not only cyclist behaviour, but with what is generally considered safe practice. The *Official New Zealand Code for Cyclists*, for example, explains that when there are heavy flows of traffic, it is safest to ride "just to the left of this lane."[14]

Proposed change

The change will allow cyclists and other transport devices to ride straight ahead from left turn lanes, unless it is dangerous to do so, or in instances where users significantly delay left-turning traffic. For example, if a left turning lane can proceed but the straight-ahead lane has a red light, a cyclist or transport device user would need to move from the left-turning lane to the straight lane to let traffic flow.

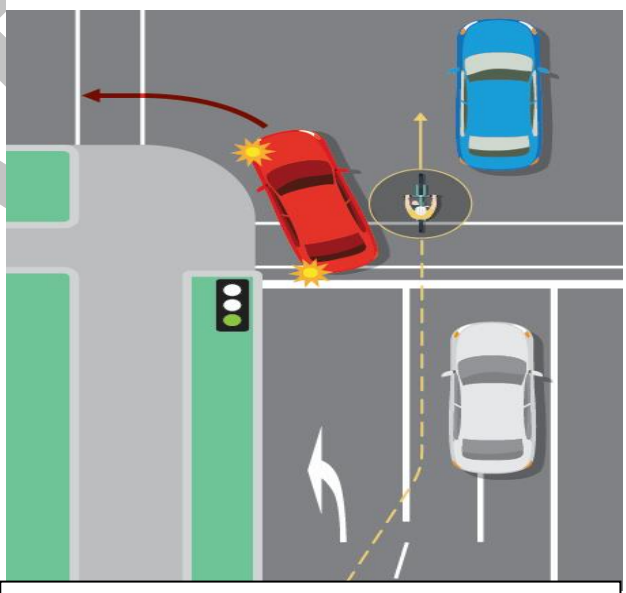

Figure 1B. Under the current state, it can be difficult for a cyclist of transport device user to find a gap in traffic to move from the left-turn lane into a straight through lane.

The left turning lane will be a safer option when cycle lanes are not available as the lane usually has less traffic and slower travel speeds.

The change is expected to legitimise safe existing behaviour. As the behaviour would no longer be illegal, the change would enable cycle skills trainers to teach people to how to use the left-turn lane when it is the safest and most appropriate way to proceed straight ahead.

An education campaign will be introduced to help advise users of these changes.

Risks

Because cyclists already use left-turning lanes to cycle straight ahead, cyclists will experience the same risks.

[13] MWH and ViaStrada (2016) *Review of road user rules for people walking and cycling*. Prepared for the New Zealand Transport Agency. https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/RUR-MWH-FINAL.pdf
[14] New Zealand Transport Agency (2016) *The Official New Zealand Code for Cyclists.*

For example, at some unsignalized intersections, a cyclist using a left-turn lane to go straight along a main road, a driver coming out of a side-road could misread the cyclist's intentions and collide with them as they drive into or across the main road. Likewise, if a motorist believes that a cyclist in the left-turn lane is going to turn left then doesn't, this could cause someone to brake suddenly and the following driver to hit the back of a cyclist or another vehicle.

There are similar risks for transport device users. Transport devices can travel at a range of different speeds and may not be able to travel at the same speed as the traffic they are travelling with.

Cyclists and transport device users will need to exercise caution and limit their speeds when riding straight ahead from a left-turn lane in these circumstances. Education about the importance of riding defensively at intersections will also be needed.

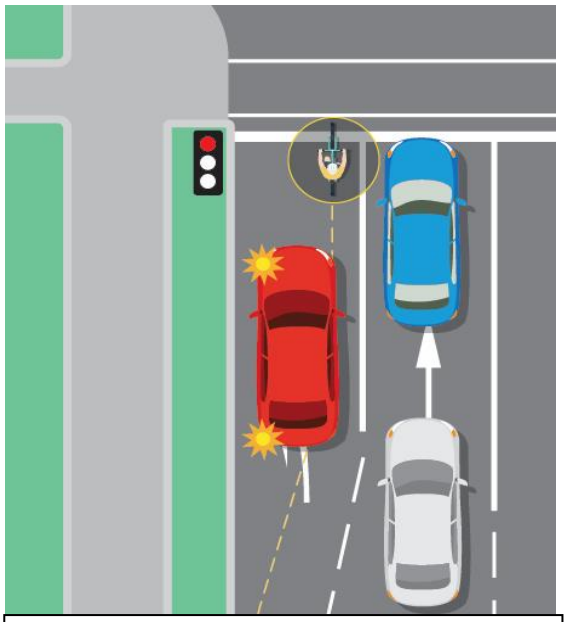

Figure 1C. Under the proposal. Cyclists and transport device users will be allowed to travel straight ahead from a left turning lane, unless specifically excluded from doing so for safety reasons.

Rule reference: *Clauses in proposed Land Transport (Road User) Amendment Rule (No 2) 2019. Clause 2.4 (Specific manoeuvres only from marked or signed lanes at intersections).*

Questions for your submission:

1. Do you think that this proposal will make intersections more efficient and safer for cyclists, transport device users and drivers? Why/why not?

2. What are your views on applying this proposal to transport device users as well as cyclists? Why/why not?

3. Do you think it is appropriate to allow transport devices like skateboards or push scooters (with or without motors) at intersections?

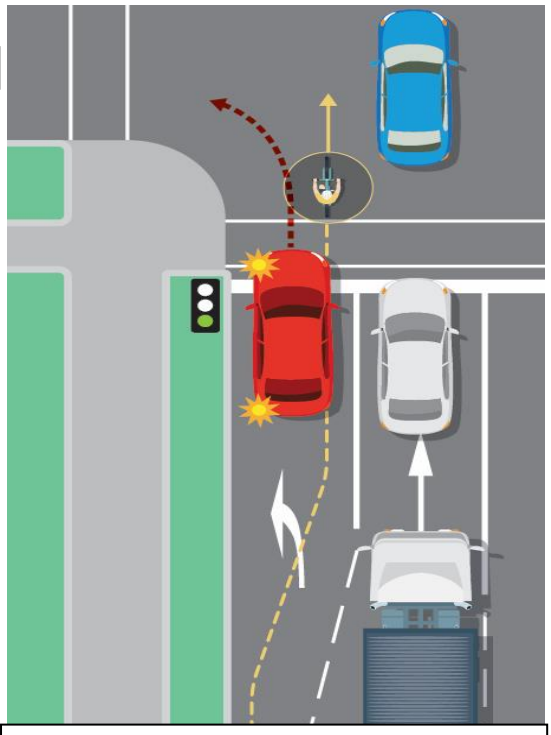

Figure 1D. Under the proposal, cyclists will be able to travel straight ahead in a lane that typically has less traffic and moves at a slower pace.

Proposal 6B: Allow cyclists and transport device users to pass motor vehicles on the left ('undertake') unless the motor vehicle is indicating a left turn

Current state

When cyclists and transport device users are on the road, they are not allowed to overtake a vehicle on the left (sometimes referred to 'undertaking'), unless that vehicle has stopped.

However, it is common for riders outside of cycle lanes to 'undertake' slow moving[15] vehicles when they believe it is safe to do so. Doing so reduces the risks associated with moving between lanes of fast-moving traffic and reduce travel times, as moving to the left means other users spend less time waiting for cyclists or device users to merge into traffic to overtake other vehicles.

This means that the current rule is not consistent with common and safe behaviour. It also differs from other countries. Australia, for example, allows cyclists to pass on the left unless the vehicle being passed is signalling to turn left.[16] This suggests that the rule may need to be updated to reflect current behaviour, safe practice, and help cities to best accommodate their cyclists and transport device users.

Proposed change

The change will allow cyclists and transport device users to undertake slow-moving traffic (and when the driver of a motor vehicle is not indicating a left turn).

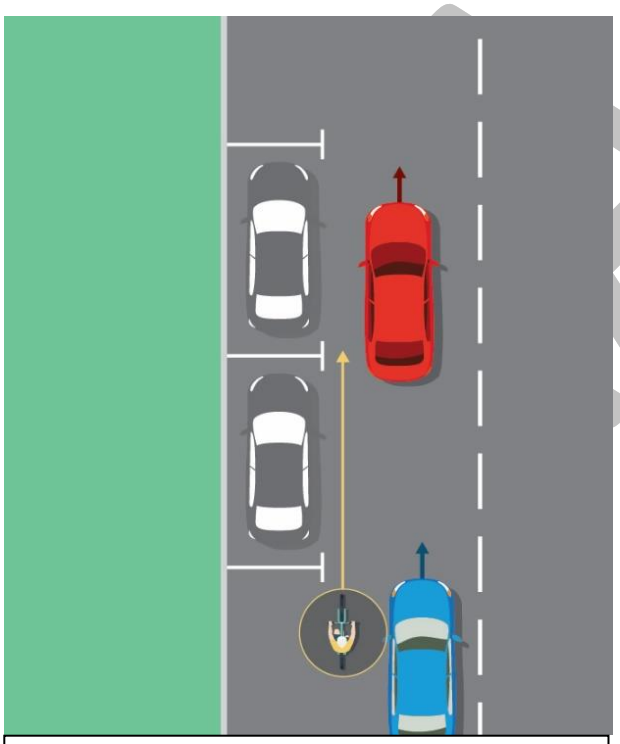

Figure 2A. Under the proposal, cyclists and transport device users will be legally allowed to undertake slow-moving traffic.

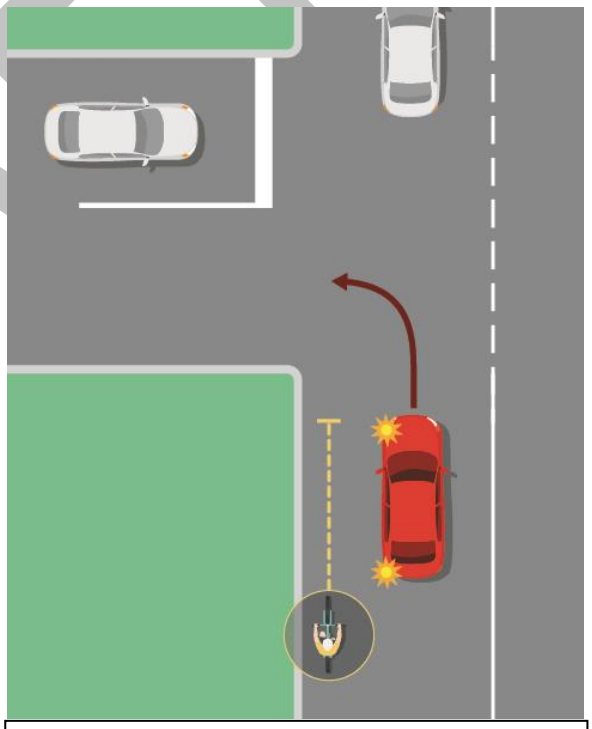

Figure 2B. Under the proposal, cyclists and transport device users will not be able to undertake slow-moving traffic when a motor vehicle is indicating a left turn.

[15] Definition of slow moving here

[16] MWH and ViaStrada (2016).

This means cyclists and transport device users can maintain a safe, steady speed past slow-moving and stop-start traffic, and ride as far to the left as practicable.

This contributes to the efficiency of cycling as transport mode, helps cyclists access advanced stop boxes and avoids the risk associated with moving between lanes of faster traffic. This change would also legitimise wide-spread practice.

Extending this change to transport device users also enables these users to be safer and move more efficiently on the road.

Risks

While 'undertaking' is already common practice, there are existing risks.

Conflicts could occur between a motorist slowing to turn left and a cyclist mistakenly undertaking them. This is particularly likely in the case of large trucks, as cyclists may not see a turn signal before beginning the undertaking manoeuvre and trucks may not see the cyclist due to blind spots.

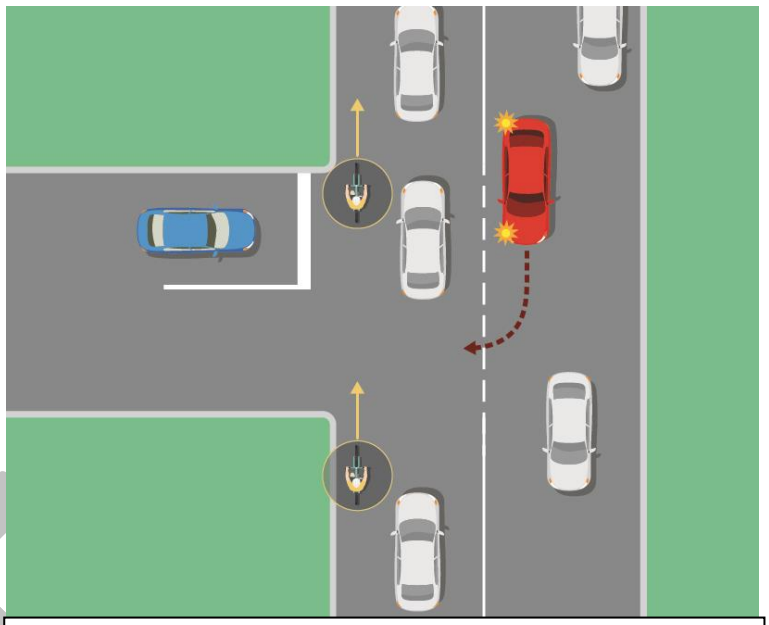

Figure 2C. Under the proposal, there is a risk that a conflict could occur between a motorist (red car) turning right into what they perceive to be a gap in traffic and an oncoming cyclist or transport device user (pictured cyclist coming up to the intersection) undertaking that line of traffic.

Conflicts could also occur between a motorist turning right into what they perceive to be a gap in traffic and an oncoming cyclist undertaking that line of slow-moving traffic. Currently it is legal for the cyclist to undertake this traffic but only if the traffic has stopped moving.

Transport device users are not required to wear a helmet (unlike cyclists) which could put them at greater risk on the road when making these manoeuvres.

The rule change would be introduced alongside a public information and an education campaign, to encourage drivers to be mindful of cyclists and transport device users on the road and to instruct riders to undertake in a safe and careful manner.

Rule reference: *Clauses in proposed Land Transport (Road User) Amendment Rule (No 2) 2019. Section 11 (Passing on left).*

Questions for your submission:

1. Do you think cyclists should be allowed to undertake slow moving traffic? Why/why not?
2. Do you think transport device users should be allowed to undertake slow moving traffic? Why/why not?
3. What are your views on this proposal applying to those on transport devices? Do you think this change should only apply to cyclists on the road?

Proposal 6C: Give users in separated lanes priority over turning traffic when they are travelling straight through an intersection

Current state

A separated lane[17] is a lane physically separated from the adjacent roadway, with the use of a traffic control device. Examples of these devices include (but are not limited to):

- Small concrete barriers or blocks
- Posts (or bollards)
- Planters

Figures 3A, 3B and 3C show common examples of traffic control devices and lane users.

Figure 3A. A separated lane with small concrete barriers.

Figure 3B. A separated lane with planters.

Figure 3C. A separated lane with posts (also known as bollards)

A separated lane is used to provide safe passage for a particular user or users such as cyclists or buses. For example, cycle paths are often separated from traffic lanes with small concrete blocks.

There is an existing requirement that turning traffic must give way to users in special vehicle lanes prior to crossing the lane. However, if the lane is separated (for example, with bollards or concrete barriers) and it passes through an intersection, it is less clear if turning traffic needs to give way to users of the special vehicle lane that are travelling straight ahead. For example, the cyclist pictured in Figure 3D is intending to travel past a side road in a separated lane. But it is not clear if the red and blue cars need to give way to the cyclist before turning into the side road.

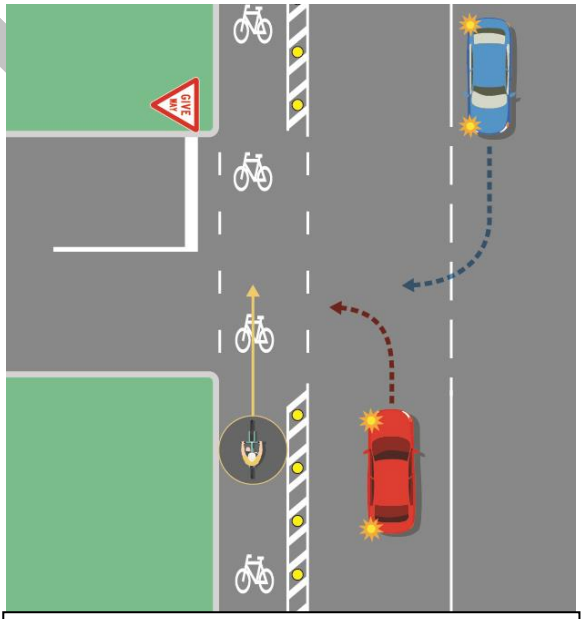

Figure 3D. Under the current state, it is not clear if the cyclist in the separated lane needs to give way to the red and blue cars before proceeding forward.

This lack of clarity can create confusion for motorists, particularly those who are new to New Zealand roads. Road users are also less likely to be aware of separate lane users or slow down when turning if they believe they have right of way or are not thinking to look for cyclists.

It can also cause major travel delays for users like cyclists and buses if there is heavy traffic. As a result, some cyclists choose to use the road instead, which can create further risks. To mitigate this, road controlling authorities make separated lanes end well before the intersection to give these users clear right of way over turning traffic. While this can clarify who has right of way, taking these steps can often reduce the

[17] A separated lane in this context is a special vehicle lane that is physically separated from the roadway.

level of separation between lane users and motorists, which could increase the possibility of a collision.

Between 2011 and 2015, 78 crashes have involved a turning motorist and a cyclist crossing an intersection from a separated lane.[18] Further clarity on these rules may help reduce accidents and increase safety.

Proposed change

The proposed change will clarify that turning traffic is required to give way to users travelling straight through an intersection in a separated lane.

This will apply to separated lanes that are adjacent to the road but will exclude lanes that are separated by larger barriers, for example, a plot of grass on a kerb as pictured in Figure 3F.

The change will reduce uncertainty for users of separated special vehicle lanes as they do not have to wait for turning traffic. Generally, turning motorists usually give way to straight-through users of cycle and bus lanes, regardless of whether the lane is separated. So, this change is legitimising current practice.

This change will allow separated cycle lanes to be built all the way up to intersections, making roads safer for cyclists, powered transport device users and buses.

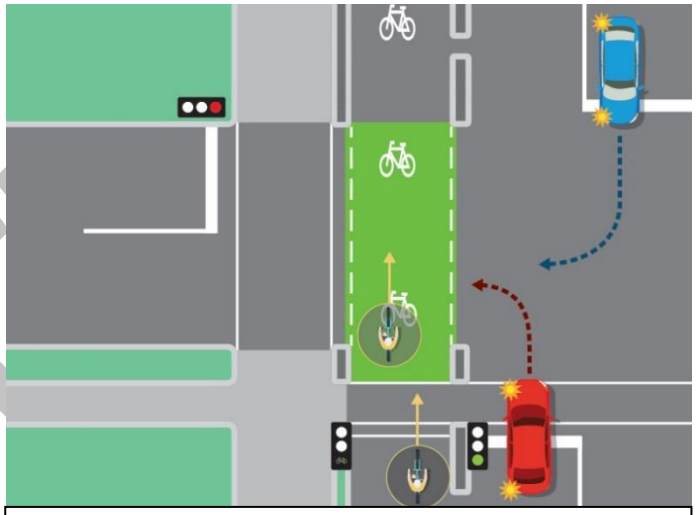

Figure 3E. Under the proposal, the cyclist going straight ahead will have right of way over traffic turning into side roads

Clarifying separated special vehicle lanes

To clarify when turning traffic must give way to users in separated lanes, a new schedule will be added to the Road Transport Traffic Control Devices Rule 2004.[19] This schedule will list different types of devices that can be used to create a separated lane (like those pictured in figures 3A, 3B and 3C) to help users understand what a separated lane is and what is excluded. The list is not intended to be exhaustive but will provide examples of what road users should expect.

Figure 3F. Under the proposed changes, separated lanes like the one pictured would be excluded from this change due to the large level of separation from other traffic lanes.

Enforcement and effectiveness

The change would be enforced by the police. We will also introduce an education campaign to help drivers and lane users to understand the changes.

Other devices in separated lanes

Transport devices such as e-scooters and skateboards using separated lanes (like cycle paths) will also have priority when travelling through an intersection (If proposal 5 is adopted).

[18] MWH and ViaStrada (2016).
[19] This schedule has not been drafted yet for your review. We will use consultation to inform how the schedule should be drafted and what delineators should be included in the schedule.

Risks

Conflicts could occur between straight-through special vehicle lane users and motorists turning left or oncoming motorists turning right through a gap in traffic. These risks are expected to have minimal impacts as turning motorists generally already give way to straight-through users of cycle and bus lanes.

Having an exhaustive list of devices may be difficult for users to understand. This could be mitigated by outlining different requirements such as introducing a maximum distance between the separated lane and a traffic lane.

Rule reference: *Changes will be in the Land Transport (Road User) Amendment Rule (No 2) 2019 and the Land Transport Traffic Control Devices Amendment Rule 2019. Rule reference to be confirmed.*

Questions for your submission:

1. Do you think giving cyclists, device users and buses in separated vehicle lanes priority over turning traffic will help reduce confusion at intersections? Why/why not?
2. 2. Do you think the proposed change will improve the safety of users travelling through intersections in special separated vehicle lanes?
3. Do you think that turning traffic should also give way to other devices like e-scooters or skateboards in separated lanes? Why/why not?
4. The proposed change will introduce a list of devices used to separate lanes from the roadway (delineators) to help users and road users understand what a separated lane is and if the user has right of way at an intersection. Do you think such a list is necessary?
5. Do you think the definition of a separated special vehicle lane should include a degree of separation in its definition?

Proposal 6D: Give priority to footpath, shared path and cycle path users over turning traffic on side-roads (where required traffic control devices are installed)

Current state

In New Zealand, footpath (and other path) users crossing a side street, without traffic signals, must give way to turning traffic, as pictured in figure 4A. Path users only have priority over turning traffic when a pedestrian (zebra) crossing is installed or at signalised intersections. By contrast, many countries prioritise path users travelling along the main road when they are crossing a side street with no traffic signals.

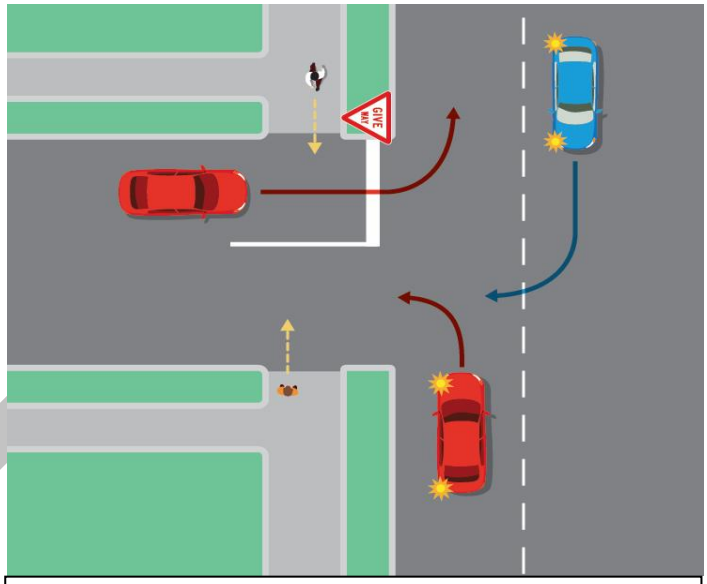

Figure 4A. Currently, path users crossing side roads, must give way to turning traffic.

Rules about motorists giving way to path users at pedestrian crossings are also inconsistent. This is a growing issue as road controlling authorities are increasing the availability of shared pathways and cycle paths.

Proposed Change

The change will mean path users crossing side roads will have priority over turning traffic when minimum markings are installed. Minimum markings are proposed to be two white lines as illustrated in figure 4B.

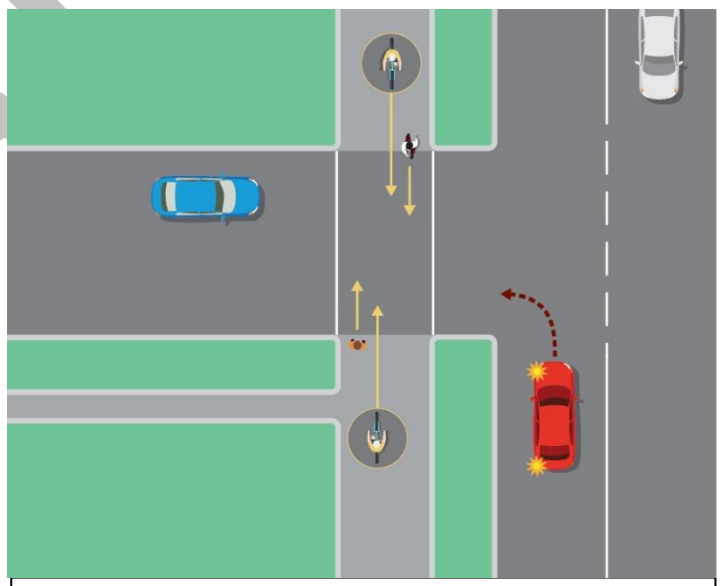

Figure 4B. Under the proposed changes, path users crossing side roads will have priority over turning traffic where minimum markings are installed. The minimum markings will be two white lines over the crossing as pictured.

Guidance provided by the Transport Agency will advise road controlling authorities about additional treatments required for busier areas, such as raised platform crossings or the use of markings and signs to indicate that path users have priority.

This means road controlling authorities can give priority to path users crossing side roads, without resorting to the expense of a signalised crossing or other treatments associated with a pedestrian crossing (like a zebra crossing).

The change will improve the status of path users in our road networks, making active transport a more attractive option. This will not only increase the frequency of places to cross where path users have priority, but also recognises paths as part of the thoroughfare, with crossings acting as a continuation of that thoroughfare. In practice, this may reduce delays for path users who would not have to wait for turning traffic when crossing at these marked side roads.

Cyclists will be able to use these crossings to safely cross the street if they are travelling on the footpath. They will still need to give right of way to pedestrians, as they do on all other parts of the footpath. This is expected to accommodate children cycling at slow speeds in places where cycling on the road would put them at risk and support the safety of adult cyclists where cycling infrastructure is not available.

In the long term this proposal is expected to improve the safety of people walking and cycling due to turning drivers taking greater care and adopting slower speeds.

Risks

Conflicts could occur between a motorist turning off the main road into a side street and path users crossing their path, if the motorist or path user is not paying attention.

The potential for conflict with long-haul trucks with long-bonnets is quite significant. With these trucks, people are hidden from view when they are 0-4.5m away from the front and sides of the truck (most other long-haul trucks have a 3-metre blind spot). This means they may not see path users crossing the road – even with traffic control devices in place. This currently occurs already at pedestrian crossings, and under this proposal the problem may be exacerbated as these crossing points are likely to be located right at the intersection.

Figure 4C. Under the proposal, guidance will call for additional treatments in busier or more risk-prone side streets. This could include, for example, the addition of raised platform crossings.

However, road controlling authorities will be able to decide which side roads are appropriate for path user priority and what treatments could be utilised to make that path safer. For example, raised platform crossings could be introduced to encourage vehicles to slow down before turning onto a side road.

Rule reference: *Clauses in proposed Land Transport (Road User) Amendment Rule (No 2) 2019. Clause 4.2 (Giving way where path crosses a roadway).*

Questions for your submission:

1. Do you think giving path users increased priority when crossing side roads with the proposed markings is appropriate? Why/why not?
2. Should this change include all path users – including cyclists and transport device users?
3. Should path users be required to check for traffic before crossing at the new priority path marking?
4. Long-haul trucks with long bonnets may not be able to see path users crossing a side road (even with additional treatments on the road, like raised platform crossings), which could increase the risk of a conflict. Do you think there are steps pedestrians or truck drivers should be required to take before crossing or entering a side road? For example, teaching pedestrians to check behind them before crossing?

Additional questions for road controlling authorities:

5. As a road controlling authority, do you think that the required minimum markings are appropriate?

6. We are proposing future guidance for additional treatments. Is there any guidance that you would like to see or recommend?

PROPOSAL 7: Introduce consistent reflector requirements for transport devices and cyclists at night time.

Current state

Cyclists are required to use reflectors[20] on pedals, headlamps[21] and position lights[22] when riding on the road at night. Transport device users, while also permitted on the road, do not have any lighting requirements. This inconsistency can be dangerous as it means transport device users can travel at night without being visible to others. This risk is amplified if the user is on the road with fast moving traffic.

Proposed change

To manage these risks, the proposed change would only permit transport device users to ride on the road at night provided:

- The transport device is fitted with reflectors or,
- The user is wearing reflective clothing.

If proposals 5 (*enabling transport device users to use cycle lanes and cycle paths*) and 6 (*giving separated lane users priority over turning traffic*) are introduced, transport device users would also need to follow these requirements if they are riding in a cycle lane or cycle path.

These requirements would not apply to users riding in shared paths or on the footpath.

Enforcement

Police and road controlling authorities currently work together to ensure that cyclists follow lighting requirements when travelling at night time. It is expected that this process will be applied to transport device users.

Transport device users could potentially be fined for not following lighting requirements.

Risks

There is a risk in not applying these requirements to users riding in shared paths and on the footpath. While many users in these spaces are not required to use lighting equipment (like pedestrians and mobility device users), not requiring transport device users to use reflectors or reflective clothing in these spaces means that users who travel at greater speeds are less visible to slower or vision impaired pedestrians and to motorists at pedestrian crossings.

Some transport devices (such as skateboards) do not have fitted reflectors and many users do not own or use reflective clothing. The change would likely require these users to purchase a reflector for their device or reflective clothing for themselves. This may be impractical or expensive for the user and could act as a barrier to continued use of a device at night. However, the safety benefits of the proposed change are likely to outweigh this cost.

Rule reference: *Clauses in proposed Land Transport (Road User) Amendment Rule (No 2) 2019. s 42 (Lighting and reflector requirements for cyclists).*

[20] A reflector is usually a small piece of glass or metal on the back of a bicycle. Reflectors work by bouncing light back in the direction of its source.
[21] A headlamp is a lamp attached to the front of the bike.
[22] A position light is another light attached to the bicycle.

Questions for your submission

1. We propose that only transport devices with reflectors or users with reflective clothing be permitted to ride on the road at night. Do you think this will improve the safety of transport device users and other users on the road? Please explain.

2. Do you think the requirements are practical? Why/why not?

3. If you own a transport device, is it possible to attach a reflector to your device?

4. Do you think the proposed lighting requirements should include other options, for example, a headlamp or lighting that could be attached to your clothing?

5. Do you think that lighting requirements for transport devices should be extended to other spaces? For example, require transport device users to wear or attach lighting equipment when riding on footpaths, shared paths, or cycle paths?

6. Do you think there are any high-risk spaces where devices should not be permitted at night time? Please explain.

PROPOSAL 8: Mandating a minimum overtaking gap for vehicles passing cyclists, transport device users, horse riders, mobility device users and pedestrians

Current state

Currently, there are broad guidelines and rules on how motor vehicles should pass cyclists, device users, horse riders, mobility device users and pedestrians on the road. There are also existing offences and penalties for careless driving causing injury, which could be used to prosecute a motorist following a serious incident involving a close pass. However, there is nothing in law that prescribes a minimum overtaking gap when motor vehicles are passing these users. This poses a significant risk as passing these types of users too closely can increase the possibility of serious injury or death for that user.

The existing Road User Rule states that drivers can only pass other road users when it is safe to do so. Likewise, the Official New Zealand Road Code recommends that drivers should allow for a space of at least 1.5 metres when passing a cyclist, and slow down, pass carefully, and give plenty of room when passing a horse.

Unfortunately, this does not deter drivers from passing too closely. Between 2008 and 2018, vehicles overtaking cyclists contributed to 174 cyclist crashes resulting in serious injury and 20 percent of fatal cyclist crashes in New Zealand.[23] Vehicles overtaking pedestrians too closely contributed to 13 crashes (3 of which resulted in no injury)[24]. Incidents between horse riders and vehicles passing too closely is also a common occurrence.

Research in New Zealand shows that the perceived risk of cycling on the road is one of the largest obstacles to increased uptake of cycling.[25] This can be a challenging perception to change when there are limited enforceable rules related to safe passing.

Proposed change

The proposed change would prescribe a safer minimum passing distance (or gap) for drivers of motor vehicles when passing cyclists, transport device users, horse riders, mobility device users and pedestrians using the road.

The minimum overtaking gap will require a lateral[26] distance of:

- 1 metre, when a motor vehicle is passing on a road with a posted speed limit of 60km/h or under and
- 1.5 metres, when a motor vehicle is passing on a road with a posted speed limit over 60km/h.

The “lateral distance” is proposed to be the distance between the far-left point of a motor vehicle or anything attached to the vehicle and the far-right point of the person being passed, their cycle/device or any trailer they are towing.

The minimum overtaking gap will largely apply to motor vehicles in the same lane as the cyclist, transport device, horse rider, mobility device or pedestrian. If, for example, a cyclist or pedestrian is in a cycle lane or footpath next to the road way, a motor vehicle must maintain a safe and considerate distance, but the minimum overtaking gap will not apply.

[23] Data from the Crash Analysis System (CAS)
[24] Ibid.
[25] OPUS (2016) *Investigating the feasibility of trialling minimum overtaking gap law for motorists overtaking cyclists in New Zealand*. https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Minimum-Overtaking-Gap-Feasibility-Study-FINAL.pdf.
[26] Lateral means from the side or sides.

The gap will also apply if a vehicle in a left lane is passing a user who is walking or riding in a road shoulder.

Figure 5A (below) shows what this will look like in practice:

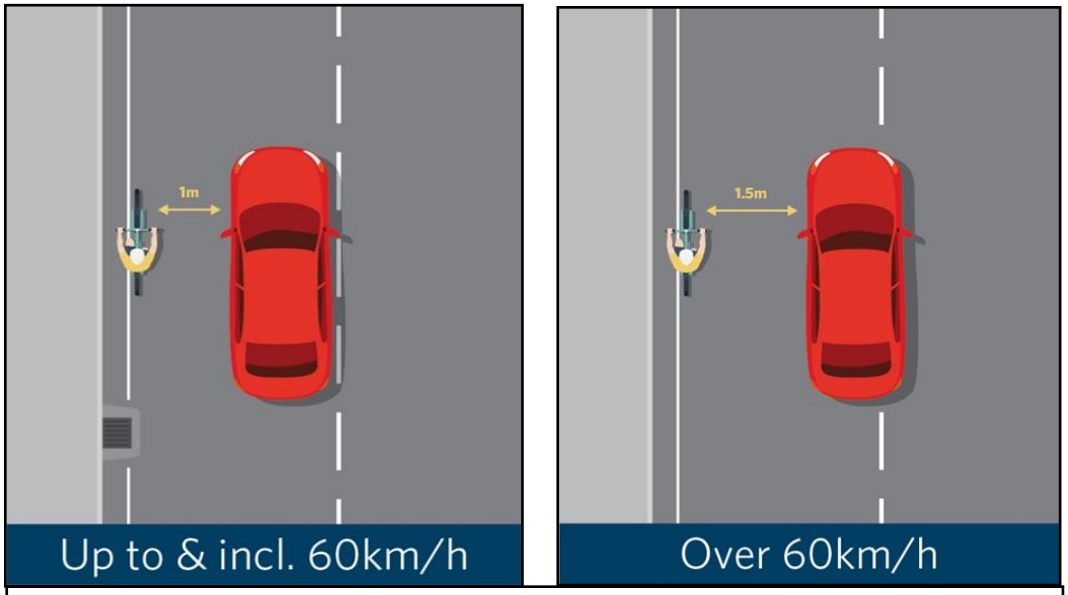

***Figure 5A**: The minimum overtaking gap for motor vehicles passing cyclists, users of transport devices, horses, users of medical mobility devices and pedestrians is proposed to be 1m when a motor vehicle is travelling at speeds of up to and including 60km/h and 1.5m when travelling above 60km/h. Motorists must be safe and considerate when driving past road users in different lanes (such as cycle lanes).*

A mandated minimum overtaking gap will set a clear prescriptive rule about what a minimum, safe passing distance is and raise awareness about the safety implications of passing lower speed road users too closely. This change will be implemented alongside an information and education campaign.

The rule change also responds to recommendations from the 2014 Cycling Safety Panel report *Safer journeys for people who cycle*[27], which calls for a minimum overtaking gap to be trialled.

Notably, the change will help to clarify the current legal situation where cyclists, transport device users, mobility device users, horses or pedestrians are involved in incidents with overtaking motor vehicles, by providing an explicit offence for passing too closely.

A mandatory minimum overtaking gap is expected to improve the perception of safety for these users.

Minimum overtaking gap and horse riders

A minimum overtaking gap will apply to motor vehicles overtaking horse riders on the road. This means there will be an offence for passing a horse rider too closely.

However, the change will not replace existing guidance from the official road code which advises that vehicles passing horses, slow down, pass carefully, and give the rider plenty of room. Motor

[27] The Cycling Safety Panel (2014) *Safer journeys for people who cycle*. https://www.saferjourneys.govt.nz/assets/Safer-journeys-files/Cycling-safety-panel-final-report.pdf.

vehicle drivers will still be expected to give horse riders a larger gap (greater than 1 or 1.5 metres) when passing.

Minimum overtaking gap and solid yellow centrelines

Motor vehicle drivers can legally cross a solid yellow centreline (or a flush median) in order to observe the minimum overtaking gap when passing. The existing requirement that motorists must not pass other motor vehicles where a solid yellow 'no passing' line is installed remains.

Motorists must still only pass when they can do so safely and with due consideration for other users of the road.

The proposed change will not apply to:

- Motor vehicles overtaking other motor vehicles. For example, if a motorist is moving into the lane of oncoming traffic to pass another motor vehicle, they are required to make this movement safely and with due consideration for other users of the road but does need to maintain a minimum overtaking gap.

- Cyclists and transport device users overtaking other road users. For example, if an e-bike overtakes a pushbike, the rider is required to overtake safely and with due consideration of other users on the road. They are not required to maintain a minimum overtaking gap.

Rule reference: Clauses in the proposed Land Transport (Road User) Amendment Rule (No 2) 2019. Clause 2.11A (Passing cyclists, horse riders, and users of other devices on the road).

Questions for your submission:

1. Is a mandated minimum overtaking gap of 1 metre (when passing on a road with a posted speed limit of60km/h or less) appropriate? Why/why not?

2. Is a mandated minimum overtaking gap of 1.5 metres (when passing on a road with posted speed limit over 60km/h) appropriate? Why/why not?

3. What do you think is a safe and considerate distance when overtaking a vehicle, device, horse rider or pedestrian on the road?

4. The mandated minimum overtaking gap is currently proposing a gap of 1 metre and 1.5 metres when passing a horse rider. Is this an appropriate distance? Should different gaps apply to different users?

5. We are proposing to apply the minimum overtaking gap to horse riders to allow for close passing to be considered an offence. Is this gap enough, or should it be wider?

PROPOSAL 9: Giving buses priority when exiting bus stops in urban areas

Current state

In New Zealand, there is no legal requirement to give way to buses pulling out of a bus stop. Doing so is only considered a courtesy. However, when this courtesy is not extended it can delay buses as they must wait for a suitable break in traffic to merge back into the traffic flow. This can result in passengers arriving at their destinations later than expected, and network planning problems for bus service providers.

Research undertaken on behalf of the Transport Agency in 2017 calculated a network wide delay of 29.51 hours per day for buses in the Auckland region due to road users failing to give way to bus drivers when exiting bus stops.[28] This means that significant time, operational cost and productivity is lost as buses wait to pull out of bus stops and passengers experience numerous delays across their journey. This can negatively impact the reliability and perception of public transport.

Proposed change

The proposed change would require road users to give way to urban buses on scheduled public transport services when leaving an area signed as a bus stop, after indicating for three seconds. The proposed change will apply on roads with a posted speed limit of 60km/h or less. Requiring drivers to give way to buses when leaving bus stops will signal that public transport has priority in urban areas, as buses usually carry more people than cars.

This rule change will come at a cost to other motorists, in vehicle operating costs and time lost. However, the subsequent reduction in travel delay times for buses and the large number of people that they carry will improve access to social and economic opportunities for travellers and make public transport more appealing as a mode of travel.

This proposed change will not:

- Give buses priority when leaving an area that is not marked or signed as a bus stop. For example, if a bus is merging into traffic at the end of a bus lane, or if cars are parked in a bus lane and the bus must move into a regular traffic lane. In these situations, there will not be a requirement for vehicles to give way to buses.
- Give priority to unscheduled bus services, for example on-demand shared mobility services.

Enforcement and effectiveness

This change would be enforceable by the NZ Police. The effectiveness of this change will be measured by using data available from regional councils related to bus reliability and punctuality, average trip times and patronage.

There will be an education campaign to raise awareness about the new changes.

[28] Abley Transportation Consultants Limited (2017) *Research Report 609: Quantifying the economic and other benefits of enabling priority bus egress from bus stops*, 1-77. https://www.nzta.govt.nz/assets/resources/research/reports/609/609-quantifying-the-benefit-of-bus-egress.pdf

Rule reference: *Clauses in the proposed Land Transport (Road User) Amendment Rule (No 2) 2019. Clause 1.6 (Interpretation), Clause 4.4A (Giving way to buses leaving bus stops).*

Questions for your submission

1. Do you think that traffic approaching a bus stop should give way to urban buses leaving the bus stop?
2. Vehicles will only be required to give way when the bus is leaving a bus stop. Do you think this should be extended to anything else? For example, when a bus is exiting a bus lane?
3. Do you think it is appropriate for unscheduled bus services (for example, on-demand shared mobility services) to be excluded from the changes? Why/why not?
4. Do you think there should be a transitional 'grace' period before motorists are required to give way to buses exiting a signed bus stop?

What are Land Transport Rules?

Land Transport Rules (Rules) are legislation made by the Minister of Transport or his delegate ('the Minister') under the *Land Transport Act 1998* (the Act).

The Act sets out principles and the legal framework, and main offences and obligations of particular road users. Rules contain detailed requirements, including standards and processes, for putting those principles and policy into operation. Rules cover a range of land transport issues. Among the outcomes that Rules aim to achieve are: safeguarding and improving land transport safety and security, improving access and mobility, assisting economic development, protecting and promoting public health and ensuring environmental sustainability.

Compliance with Rules is required because they form part of New Zealand law. The specific offences and penalties that apply to each Rule are set out in the Act or in regulations.

The Act provides the legal framework for making Land Transport Rules. Section 161 states the procedures by which the Minister makes ordinary Rules.

Most Rules are drafted by the Transport Agency, by an arrangement with the Secretary for Transport, working closely with the Ministry of Transport's policy and legal advisors.

Rules are drafted in plain language to be understood by a wide audience and to help ensure compliance with requirements. The Transport Agency is responsible for ensuring that appropriate consultation is undertaken on proposed Rules, and a draft Rule may be changed in response to submissions received.

Application of Rule-making criteria

Proposed activity or service

Section 164(2)(b) of the Act requires that appropriate weight be given to the nature of the proposed activity or service for which the Rule is being established.

The Accessible Streets Regulatory Package directly addresses the focus of the Government Policy Statement on Land Transport 2018/19 – 2027/28 on improving New Zealanders' access to economic and social opportunities. It intends to support mode shift for short trips in urban centres from private vehicles to more energy efficient, healthier, low cost modes like walking, cycling and transport devices. It will also assist with the goal of reducing harmful transport emissions. It recognises the importance of creating liveable cities that value public space, enhance safety outcomes and improve access. The package also supports the current safe system approach to road safety in New Zealand.

Risk to land transport safety

Section 164(2)(a),(b), (c) and *(d)* requires the Minister to take into account the level of risk to land transport safety in each proposed activity or service, the level of risk existing to

land transport safety in general in New Zealand, and the need to maintain and improve land transport safety and security.

The regulatory package supports the current safe system approach to road safety in New Zealand and has been designed to increase safety and accessibility for people.

It seeks to increase people's safety when using the transport system by changing who is allowed on paths and cycle lanes and under what conditions, changing the priority of road users in some circumstances to favour the most vulnerable users, mandating a safe overtaking gap for motor vehicles when passing different road users and encouraging safer options by supporting public transport uptake in urban areas.

Assisting achievement of strategic objectives for transport

Section 164(2)(e) of the Act requires that the Minister have regard and give such weight as he or she considers appropriate in each case, to whether a proposed Rule (i) assists economic development; (ii) improves access and mobility; (iii) protects and promotes public health; and (iv) ensures environmental sustainability.

Assists economic development

The proposed new Rule and existing Rule amendments assists economic development by improving New Zealanders' access to economic opportunities. The Accessible Streets Regulatory Package is a collection of land transport rules that reallocates space and priority to different users to help people connect with places for working, shopping, and accessing services.

Improves access and mobility

The proposed new Rule and existing Rule amendments will improve access and mobility by recognising and providing for all people (including allowing children to cycle on the footpath and the increasing number of medical mobility device users). The package will provide greater options for people within existing transport spaces.

The package will enable the accessibility benefits of electronic transport devices to be better realised. Low-cost forms of transport for short trips will be supported by removing some current restrictions for users and reassigning priority to these low-cost modes within the transport system.

The package will also improve efficiency and reliability of public transport services by supporting scheduled services to run to timetable thereby encouraging a greater uptake of public transport patronage.

Protects and promotes public health

The proposed amendments and new Rule will support mode shift for short trips from private vehicles to more energy efficient and active modes like walking, cycling and transport devices. This will improve the uptake of transport modes that improve health and wellbeing.

Ensure environmental sustainability

The proposed new Rule and amendments to existing rules will support environmental sustainability by support mode shift for short trips from private vehicles to more energy efficient modes like walking, cycling and transport devices (powered and unpowered).

Costs of implementing the proposed changes

Section 164(2) (ea) of the Act requires that the Minister have regard to the costs of implementing measures proposed in a Rule. A summary of the costs, and benefits, of the proposed changes, together with links to the regulatory impact statements on the Ministry of Transport's website, can be found on page:

[link to RIS on MoT website]

International considerations

Section 164(2) (eb) and *(f)* of the Act requires that, in making a Rule, the Minister must have regard to New Zealand's international obligations concerning land transport safety, and the international circumstances in respect of land transport safety.

The proposed amendment does not conflict with New Zealand's international obligations or circumstances concerning land transport safety.

How the amendment Rule fits with other legislation

Offences and penalties

Land Transport Rules do not contain offences and penalties for breaches of Rule requirements. These provisions are usually set out in regulations.

A consequential change to the *Land Transport (Offences and Penalties) Regulations 1999* is required to amend and create new offences and penalties to support enforcement for the proposed new rule and amendment to existing rules.

Fees and Charges

No changes

Publication and availability of Rules

Access to consultation material

Copies of this consultation document may be obtained by calling the Transport Agency Contact Centre on 0800 699 000. It is also available on the Transport Agency's website at:

[link]

Availability of Rules

Land Transport Rules can be purchased from selected bookshops throughout New Zealand that sell legislation. They are also available to read free of charge at the offices of the Transport Agency. Final versions of Rules are also available on the Transport Agency's website at:

http://www.nzta.govt.nz/resources/rules/about/

The current consolidated version of the Road User Rule is available at:

[link]

The current consolidated version of the Traffic Control Devices Rule is available at:

[link]

The current consolidated version of the Setting of Speed Limits Rule is available at:

[link]

Information about Rules

Information about Rules is available online at:

http://www.nzta.govt.nz/resources/rules/about/

If you wish to register your interest in this proposed amendment Rule (or other Rules), you can do so by contacting the Transport Agency at our addresses shown in the *Making a submission* section at the front of this document, or at: http://www.nzta.govt.nz/resources/rules/about/registration.html. This includes a form for registering an interest in Rules.

Appendix
Regulatory impact of proposed Rule amendments

A Regulatory Impact Statement on the proposed Rule changes is available for you to read, should you wish, in conjunction with the overview.

The document can be downloaded from the Ministry of Transport's website at:

[link to RIS on MoT website]

A summary table of the benefits and costs of the Rules proposals are set out in Table 1.

Table 1: Summary table of costs and benefits

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 (e.g. ongoing, one-off), evidence and assumption (e.g. 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 e.g. 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.

What other impacts is this approach likely to have?
Allowing cyclists, e-scooter and yikebike users on the footpath 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, e-scooter and yikebike users 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.